Supreme Court, U.S.
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No. 00-1737

IN THE

Supreme Court of the United States

WATCHTOWER BIBLE AND TRACT SOCIETY OF NEW YORK, INC., and WELLSVILLE, OHIO, CONGREGATION OF JEHOVAH'S WITNESSES, INC.,

Petitioners,

v.

VILLAGE OF STRATTON, OHIO, and JOHN M. ABDALLA, Mayor of the Village of Stratton, Ohio, in his official capacity,

Respondents.

ON WRIT OF CERTIORARI TO THE
UNITED STATES COURT OF APPEALS FOR THE SIXTH CIRCUIT

JOINT APPENDIX

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PETITION FOR CERTIORARI FILED MAY 17, 2001
CERTIORARI GRANTED OCTOBER 15, 2001

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APPENDIX A — RELEVANT DOCKET ENTRIES OF THE UNITED STATES DISTRICT COURT FOR THE SOUTHERN DISTRICT OF OHIO

June 3, 1999	Complaint (referred to Mag. Judge Mark R. Abel).
June 3, 1999	Motion by plaintiff Watchtower Bible, plaintiff Wellsville OH Congregation of Jehovah's Witnesses, Inc. for preliminary injunction.
July 1, 1999	Memorandum by defendant Village of Stratton Ohio, defendant Council of the Village of Stratton, defendant John M. Abdalla in opposition to motion for preliminary injunction.
July 2, 1999	Motion by amicus Ohio Municipal League for leave to file a brief as an amicus curiae.
July 6, 1999	Answer by defendants Village of Stratton Ohio, Council of the Village of Stratton, John M. Abdalla.
July 6, 1999	Motion by defendant Council of the Village of Stratton to dismiss the Complaint as to Council of the Village of Stratton because defendant is not sui juris.
July 9, 1999	Order by Magistrate Judge Mark R. Abel granting motion for leave to file a brief as an amicus curiae.

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July 9, 1999	Brief filed by amicus Ohio Municipal League in support of the Village of Stratton.
July 21, 1999	Reply by plaintiff Watchtower Bible, plaintiff Wellsville OH Congregation of Jehovah's Witnesses to response to motion for preliminary injunction.
July 27, 1999	Order by Judge Edmund A. Sargus Jr. denying the motion to dismiss the Complaint as to Council of the Village of Stratton because defendant is not sui juris as moot. Dismissing party Council of the Village of Stratton.
July 27, 1999	Civil Minutes: Preliminary Injunction Hearing held in St. Clairsville before Judge Edmund A. Sargus Jr. For Plaintiffs – Susan B. Gellman, Esq., Paul D. Polidoro, Esq., Richard D. Moake, Esq. For defendants Abraham Cantor, Esq., Diane Richards Brey, Esq., Frank Bruzzese, Esq. (Rep), John Abdalla, Mayor (Rep). Court Reporter – Laura Samuels. Law Clerk/Acting Courtroom Deputy – Jennifer Henderson, Esq.
July 30, 1999	Memorandum by defendants regarding Plaintiff Watchtower Bible and Tract Society of New York, Inc.'s capacity to sue.
Aug. 5, 1999	Response Memorandum by plaintiff Watchtower Bible on the issue of capacity to sue.

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Aug. 6, 1999	Order by Judge Edmund A. Sargus Jr. granting in part and denying in part motion for preliminary injunction.
Aug. 12, 1999	Withdrawal by defendant Village of Stratton, Ohio, defendant John M. Abdalla of defenses regarding capacity to sue.
Aug. 16, 1999	Transcript of Preliminary Injunction hearing held before Judge Sargus on 7/27/99 in St. Clairsville.
Aug. 18, 1999	Order by Judge Edmund A. Sargus Jr. granting in part and denying in part plaintiff's motion for preliminary injunction pursuant to the Court's 8/6/99 Memorandum and Order dismissing case.
Aug. 18, 1999	Judgement: dismissing case pursuant to the Court's 8/18/99 Order and 8/6/99 Memorandum and Order granting in part and denying in part plaintiff's motion for preliminary and permanent injunction.
Sept. 3, 1999	Notice of Appeal by plaintiff Watchtower Bible, plaintiff Wellsville OH Congregation of Jehovah's Witnesses from District Court decision of 8/18/99.
Sept. 7, 1999	Appeal Notification issued CA.
July 28, 2000	Record certified to USCA 6th.

Appendix A

Mar. 15, 2001	Order of USCA 6th: dismissing the appeal.
Mar. 16, 2001	Appeal record returned from USCA 6th.
May 31, 2001	Letter to court for the U.S. Supreme Court placing the petition for a writ of certiorari on the 5/21/01 docket.
Oct. 23, 2001	Order of the U.S. Supreme Court: granting writ of certiorari.
Oct. 24, 2001	Record certified to the U.S. Supreme Court: 1 volume and 1 transcript sent via UPS.

APPENDIX B — RELEVANT DOCKET ENTRIES OF THE UNITED STATES COURT OF APPEALS FOR THE SIXTH CIRCUIT

Sept. 9, 1999	Civil Case Docketed. Notice filed by Appellant Watchtower Bible, Appellant Wellsville.
Nov. 29, 1999	Pre-Argument Conference work complete.
Nov. 30, 1999	Proof Brief filed by Paul D. Polidoro for Appellant Wellsville, Susan B. Gellman for Appellant Wellsville, Appellant Watchtower Bible, Richard D. Moake for Appellant Watchtower Bible. Certificate of service date 11/29/99.
Nov. 30, 1999	Request to require oral argument filed by Paul D. Polidoro for Appellant Wellsville, Richard D. Moake for Appellant Watchtower Bible.
Dec. 28, 1999	Appearance filed by Attorney Barry M. Byron for Ohio Municipal League, Ohio Municipal League.
Dec. 28, 1999	Motion filed to allow Ohio Municipal League to file an amicus brief. Motion filed by Barry M. Byron for Ohio Municipal League, Ohio Municipal League.
Dec. 28, 1999	Amicus Brief tendered. Received from Barry M. Byron for OH Municipal League, Ohio Municipal League.

Appendix B

Dec. 28, 1999	Brief filed by Barry M. Byron for Amicus Curiae Ohio Municipal League, Amicus Curiae Ohio Municipal League. Certificate of service date 12/27/99.
Jan. 11, 2000	Request to require oral argument filed by Abraham Cantor for Appellee John M. Abdalla, Appellee Council of Stratton, Appellee Village of Stratton.
Jan. 12, 2000	Proof Brief filed by Abraham Cantor for Appellee John M. Abdalla, Appellee Council of Stratton, Appellee Village of Stratton. Certificate of service date 1/11/00.
Feb. 10, 2000	Proof Reply Brief filed by Paul D. Polidoro, Susan B. Gellman, and Richard D. Moake for Appellant Watchtower Bible. Certificate of service date 2/9/00.
Feb. 16, 2000	Appendix filed by Paul D. Polidoro for Appellant. Certificate of service date 2/15/00.
Feb. 22, 2000	Final Brief filed by Abraham Cantor for Appellee John M. Abdalla, Appellee Council of Stratton, Appellee Village of Stratton. Certificate of service date 2/18/00.
Mar. 7, 2000	Final Brief filed by Paul D. Polidoro for Appellant Wellsville, Susan B. Gellman for Appellant Wellsville, Appellant Watchtower Bible, Richard D. Moake for Appellant Watchtower Bible. Certificate of service date 3/6/00.

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	Bible, Richard D. Moake for Appellant Watchtower Bible. Certificate of service date 3/6/00.
Mar. 7, 2000	Final Reply Brief filed by Paul D. Polidoro for Appellant Wellsville, Susan B. Gellman for Appellant Wellsville, Appellant Watchtower Bible, Richard D. Moake for Appellant Watchtower Bible. Certificate of service date 3/6/00.
July 20, 2000	Record requested from District Court.
July 26, 2000	Ruling granting motion to allow amicus (Ohio Municipal League) to file a brief filed by Barry M. Byron.
Aug. 1, 2000	Certified Record filed. Volumes include 2 Pl.
Aug. 7, 2000	Additional Citation filed by Paul D. Polidoro for Appellant Wellsville in 99-4087.
Aug. 25, 2000	Additional Citation filed by Paul D. Polidoro for Appellant Wellsville in 99-4087, Paul D. Polidoro for Appellee Wellsville in 00-3325.
Aug. 29, 2000	Additional Citation filed by Abraham Cantor for Appellee John M. Abdalla, Appellee Council of Stratton, Appellee Village of Stratton in 99-4087.

Appendix B

Sept. 21, 2000	Cause argued on 9/21/00 by Paul D. Polidoro for Appellant Wellsville in 99-4087, Abraham Cantor for Appellee John M. Abdalla, Appellee Council of Stratton, Appellee Village of Stratton in 99-4087, Paul D. Polidoro for Appellee Wellsville in 00-3325, Abraham Cantor for Appellant John M. Abdalla, Appellant Village of Stratton in 00-3325 before Judges Merritt, Kennedy, Gilman.
Feb. 20, 2001	Opinion filed: Affirmed; decision for publication pursuant to local rule 206. Gilbert S. Merritt, Circuit Judge, Cornelia G. Kennedy, Authoring Judge, Ronald L. Gilman, Circuit Judge (delivered a separate opinion, concurring in part and dissenting in part).
Feb. 20, 2001	Judgment: Affirmed.
Mar. 14, 2001	Mandate issued with no cost taxed.
Mar. 14, 2001	Certified Record returned to lower court at the end of appellate proceedings. Volumes included: 2 Pl.
Mar. 22, 2001	Record acknowledgement received from the district court. Acknowledged by: Scott Miller. Acknowledgement date: 03/16/01.

Appendix B

May 29, 2001	U.S. Supreme Court notice filed regarding petition for writ of certiorari filed by Appellant Watchtower Bible. Filed in the Supreme Court on 5/21/01, Supreme Ct. case number: 00-1737.
Oct. 22, 2001	U.S. Supreme Court letter filed granting petition for writ of certiorari – limited to question two presented by the petition filed by Watchtower Bible. Filed in the Supreme Court on 10/15/01.

APPENDIX C — COMPLAINT WITH EXHIBIT A: ORDINANCE NO. 1998-5 AND CIVIL COVER SHEET DATED AND FILED JUNE 3, 1999

IN THE UNITED STATES DISTRICT COURT FOR THE SOUTHERN DISTRICT OF OHIO EASTERN DIVISION

Case No. C2-99 526

JUDGE SARGUS
MAGISTRATE JUDGE ABEL

WATCHTOWER BIBLE AND TRACT SOCIETY OF NEW YORK, INC.
25 Columbia Heights
Brooklyn, New York, 11201-1300; and

THE WELLSVILLE, OHIO, CONGREGATION OF JEHOVAH'S WITNESSES, INC.
472 14th Street
Wellsville, Ohio 43968-1308,

Plaintiffs,

vs.

THE VILLAGE OF STRATTON, OHIO,

COUNCIL OF THE VILLAGE OF STRATTON, OHIO,

and

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JOHN M. ABDALLA, MAYOR OF THE VILLAGE OF STRATTON, OHIO, in his official capacity

all care of:
Village of Stratton Municipal Building
136 Third Avenue, Stratton, Ohio 43961,

Defendants.

COMPLAINT

1. The Plaintiffs, Watchtower Bible and Tract Society of New York, Inc., and the Wellsville, Ohio, Congregation of Jehovah's Witnesses, Inc., bring this action for declaratory and injunctive relief against the Village of Stratton, Ohio; the Village Council; and the Mayor of the Village, in his official capacity, to seek declaratory and injunctive relief to remedy deprivations of their rights to freedom of religion, freedom of speech, freedom of the press, and due process of law through the enactment and implementation of a legislative scheme that interferes with and chills the exercise of those rights. Chapter 116, Sections 116.01 through 116.06, inclusive, and Section 116.99, of the Codified Ordinances of the Village of Stratton ("the Ordinances," attached as Exhibit A). This legislative scheme places unconstitutionally unreasonable restrictions upon the Plaintiffs' exercise of their rights to free exercise of religion, freedom of speech, and freedom of the press, and it was designed to do so. Each paragraph of the complaint incorporates the others without restatement.

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JURISDICTION AND VENUE

2. This action arises under the First and Fourteenth Amendments to the United States Constitution; Sections 7, 11, and 16 of Article I of the Ohio Constitution; and 42 U.S.C. §§ 1983 and 1985.

3. This Court has jurisdiction of this action pursuant to 28 U.S.C. §§ 1331, 1343, 2201, and 2202.

4. This Court is authorized to grant the Plaintiffs' prayer for relief and to award costs, including reasonable attorneys' fees, under 42 U.S.C. § 1988.

5. This Court is authorized to grant declaratory judgment under the Declaratory Judgment Act, 28 U.S.C. §§ 2201 and 2202, implemented through Rule 57 of the Federal Rules of Civil Procedure, and to issue the preliminary and permanent injunctions requested by the Plaintiffs pursuant to Rule 65 of the Federal Rules of Civil Procedure.

6. Venue is proper under 28 U.S.C. § 1391(b) and Local Rule 3.3, as all of the Defendants are found within Jefferson County, Ohio, and the Defendants' acts alleged herein occurred in the County of Jefferson, Ohio.

PARTIES

7. Watchtower Bible and Tract Society of New York, Inc. ("Watchtower") is a non-stock corporation duly organized and existing under the laws of the State of

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New York. Its principal place of business is 25 Columbia Heights, Brooklyn, New York. Watchtower is a tax exempt organization under the United States Internal Revenue Code.

8. The Wellsville, Ohio Congregation of Jehovah's Witnesses, Inc. is a non-stock corporation duly organized and existing under the laws of the State of Ohio. Its principal place of business is 472 14th Street, Wellsville, Ohio. All members of the Wellsville, Ohio Congregation of Jehovah's Witnesses, Inc., are Jehovah's Witnesses by religion, and the reason for the formation of the corporation was and is to practice the religion of Jehovah's Witnesses under the auspices of Watchtower. (The corporation and its individual members are referred to collectively herein as "the Wellsville Congregation.")

9. The Village of Stratton, Ohio ("the Village") is a public body corporate and politic established, organized, and authorized pursuant to the laws of the State of Ohio, having the authority to sue and be sued. Its principal place of business is in Jefferson County, Ohio.

10. John M. Abdalla ("the Mayor") is the mayor of the Village, a duly elected public official. His principal place of business is in Jefferson County, Ohio. Upon information and belief, the Mayor resides in the Village.

11. The Council of the Village of Stratton ("the Council") is an elected public body of members. Its principal place of business is in Jefferson County, Ohio.

12. At all times relevant hereto, the Defendants were acting within the course and scope of their respective authority and under color of state law.

STATEMENT OF FACTS

13. Jehovah's Witnesses believe that they have a Bible-based duty to tell other people about the contents of the Bible and its importance to people today. They do this by talking to people at their homes and businesses, on the public streets, at public places, and elsewhere that people are willing to discuss such topics. One of the primary methods used by Jehovah's Witnesses to talk with people is by going from door to door in residential and business neighborhoods, and by meeting people on public streets and in public buildings. Jehovah's Witnesses' beliefs in this regard are based upon biblical verses including Matthew 24:14; Matthew 28:19-20; Acts 5:42; Acts 20:20; Acts 20:27; and 2 Timothy 4:1-2.

14. Watchtower is the corporation utilized by the Governing Body of Jehovah's Witnesses to coordinate the preaching activity in the United States. Among its activities is the dissemination of what Jehovah's Witnesses believe to be Bible truths, in various languages, by means of the publication of Bibles, tracts, pamphlets, papers, and other religious documents.

15. Watchtower is and has been since 1909 the publisher of numerous Bibles, tracts, magazines, booklets, and books, including the bi-weekly magazines *The Watchtower* and *Awake!*, all of which are distributed

throughout the continental United States and elsewhere. The primary means by which Watchtower distributes these publications is through congregations of Jehovah's Witnesses, whose members personally distribute them to individuals, primarily through personal contact.

16. The Wellsville Congregation consists of approximately 59 members and is the congregation of Jehovah's Witnesses that would coordinate and conduct the ministry activity in the Village. In doing so, its members distribute Watchtower's publications and talk to people about the Bible in the manner described above.

17. Jehovah's Witnesses, including the Wellsville Congregation, have a reputation both in the United States and in over 230 countries worldwide as being well-dressed and well-groomed; of being peaceful, law-abiding citizens; and of conducting public ministry.

18. As part of their ministry, Jehovah's Witnesses, including the Wellsville Congregation, offer home Bible studies without cost to anyone who is interested and offer religious literature without cost to anyone who shows genuine interest in reading it. All preaching and teaching done by Jehovah's Witnesses is done on a volunteer basis and without charge. The basis for Jehovah's Witnesses' doing this work is the Scriptural commission that "without cost I gladly declared the good news of God to you," as stated by the Apostle Paul at 2 Corinthians 11:7 (*New World Translation of the Holy Scriptures*).

19. Neither Watchtower nor the Wellsville Congregation advertises, promotes, sells, or explains any product,

service, organization, or cause, or solicits orders for the sale of goods, wares, merchandise, or services in the Village.

20. In attempting to conduct their public ministry activity in the Village, members of the Wellsville Congregation have been confronted by both the Village's police officers and the Mayor, who told them (1) that they had to stop their public ministry and "get out of town" or they would be arrested, and (2) "You know you are not to be here — if you were not women, you would be arrested on the spot."

21. The Village amended the relevant sections of the Codified Ordinances of the Village of Stratton in 1998, following inquiry from the Plaintiffs. The Act enacting the Ordinances is Ordinance No. 1998-5, "Ordinance Regulating Uninvited Peddling and Solicitation upon private property in the Village of Stratton, Ohio, and Amending Ordinance No. 1996-06 of the Ordinances of the Village of Stratton, Ohio." It is set forth in its entirety in Exhibit A.

22. Section 116.01, "Uninvited Peddling and Soliciting Declared a Nuisance," provides:

> The practice of going in and upon private property and/or the private residences of Village residents in the Village by canvassers, solicitors, peddlers, hawkers, itinerant merchants or transient vendors of merchandise or services, not having been invited to do so by the owners or occupants

> of such private property or residences, and not having first obtained a permit pursuant to Section 116.03 of this Chapter, for the purpose of advertising, promoting, selling and/or explaining any product, service, organization or cause, or for the purpose of soliciting orders for the sale of goods, wares, merchandise or services, is hereby declared to be a nuisance and is prohibited.

23. Section 116.02, "Enforcement," provides:

> The Chief of Police (Village Marshall) and Village Police Officers are hereby required and authorized to abate any such nuisance as is described in Section 116.01.

24. Section 116.03, "Registration Required — Prohibition of Unregistered Solicitation, Etc.," provides:

> (a) No canvasser, solicitor, peddler, hawker, itinerant merchant or transient vendor of merchandise or services who is described in Section 116.01 of this Chapter and who intends to go in or upon private property or a private residence in the Village for any of the purposes described in Section 116.01, shall go in or upon such private property or residence without first registering in the office of the Mayor and obtaining a Solicitation Permit.
>
> (b) The registration required by subsection (a) hereof shall be made by filing a Solicitor's

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Registration Form, at the office of the Mayor, on a form furnished for such purpose. The Form shall be completed by the Registrant and it shall then [sic] contain the following information:

(1) The name and home address of the Registrant and Registrant's residence for five years next preceding the date of registration;

(2) A brief description of the nature and purpose of the business, promotion, solicitation, organization, cause and/or the goods or services offered;

(3) The name and address of the employer or affiliated organization, with the credentials from the employer or organization showing the exact relationship and authority of the Applicant;

(4) The length of time for which the privilege to canvass or solicit is desired;

(5) The specific address of each private residence at which the Registrant intends to engage in the conduct described in Section 116.01 of this Chapter; and,

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(6) Such other information concerning the Registrant and its business or purpose as may be reasonably necessary to accurately describe the nature of the privilege desired.

25. Section 116.04, "Issuance of Permit; Fee, Content, and Display," provides:

Each Registrant who complies with Section 116.03(b) shall be furnished a Solicitation Permit. The permit shall indicate that the applicant has registered as required by Section 116.03 of this Chapter. No permittee shall go in or upon any premises not listed on the Registrants' Solicitor's Registration Form.

Each person shall at all times, while exercising the privilege in the Village incident to such permit, carry upon his person his permit and the same shall be exhibited by such person whenever he is requested to do so by any police officer or by any person who is solicited.

Section 116.01 of this Chapter shall not apply and shall not be construed to apply to the holder of a valid permit issued pursuant to this Section.

26. Section 116.05, "Time Limitations," provides:

No activity permitted under authority of this chapter shall commence prior to 9:00 a.m. nor

continue after 5:00 p.m. This time limitation shall be stated on the permit.

27. Section 116.06, "Denial or Revocation of Permit," provides in part:

> Permits described in Section 116.04 of this Chapter may be denied or revoked by the Mayor for any one or more of the following reasons:
>
> (a) Incomplete information provided by the Registrant in the Solicitor's Registration Form.
>
> (b) Fraud or misrepresentation contained in the Solicitor's Registration Form.
>
> (c) Fraud, misrepresentation or false statements made in the course of conducting the activity.
>
> (d) Violation of any of the provisions of this chapter or of other Codified Ordinances or of any State or Federal Law.
>
> (e) Conducting canvassing, soliciting or business in such a manner as to constitute a trespass upon private property.

> (f) The permittee ceases to possess the qualifications required in this chapter for the original registration.
>
> The revocation of a permit shall be in addition to any penalty provided in Section 116.99 of the Codified Ordinances of the Village of Stratton, Ohio, or any other penalty that may be imposed upon the permittee in accordance with the law.

28. Section 116.07, "Owner's/Occupant's Prohibition Against Entry," provides a method by which owners or occupants of private property may prohibit the uninvited entry of even those persons who have complied with the Ordinances by registering the property with the Village and posting a "No Solicitation" sign in a location reasonably visible to persons intending to enter the property.

29. Section 116.99, "Penalty," states that violation of Sections 116.01, 116.03, and 116.07 is a misdemeanor of the fourth degree.

30. Section 2 of Ordinance 1998-5 states:

> This Ordinance is hereby declared to be an emergency Ordinance, necessary to the preservation of the public peace, safety and welfare of the citizens of the Village of Stratton, Ohio, and such emergency exists by reason of the fact that the failure to regulate the time and manner of the conduct which is regulated by the above

Ordinance, and the failure to identify those engaged in such conduct, creates a risk of unwanted intrusion, annoyance and potential harm to Village residents who are less able, than the village, to identify and regulate the conduct of persons, corporations, entities and organizations engaged in such conduct.

Section 3 of Ordinance 1998-5 states, "This Ordinance shall be in full force and effect immediately upon its passage."

31. The Ordinances were promulgated and are enforced by the Defendants under color of law and constitute the policy and custom of the Defendants.

32. The current policy of the Village is that the Ordinances apply to the Plaintiffs, who must obtain permits in order to conduct public ministry in the Village. This policy is reflected in letters sent between February 11, 1998 and September 9, 1998 to Watchtower by the Village's attorney, Frank J. Bruzzese, and by the Mayor. The Wellsville Congregation and Watchtower asked the Village to change its position regarding application of the Ordinances to the Plaintiffs, in letters from Watchtower's counsel to the Defendants between December 11, 1997 and August 21, 1998, but the Defendants have refused to do so. The referenced letters are attached as Exhibits B through K.

33. There is a genuine threat that the Wellsville Congregation will be prosecuted if they exercise their

constitutional rights by engaging in their public ministry in the Village.

34. The Plaintiffs' religious activities pose no material threat or impediment to the peace, safety, and welfare of the people and property of the Village.

COUNT ONE

THE ORDINANCES ARE FACIALLY UNCONSTITUTIONAL BECAUSE THEY UNREASONABLY INFRINGE UPON FREE EXERCISE OF RELIGION, IN VIOLATION OF THE FIRST AND FOURTEENTH AMENDMENTS TO THE UNITED STATES CONSTITUTION AND SECTION 7 OF ARTICLE I OF THE OHIO CONSTITUTION

35. The Ordinances are susceptible to application to constitutionally protected religious activity by individuals and religious organizations.

36. The Ordinances impose a prior restraint and unreasonable conditions, requirements, and restrictions upon the free exercise of religion.

37. The Ordinances constitute an improper scheme of censorship of religious ideas and expression.

38. The Ordinances chill constitutionally protected religious belief and practice.

39. The Ordinances grant unreasonable discretion to government officials.

40. The Ordinances are not narrowly tailored to serve a compelling state interest.

41. There is no adequate remedy at law to compensate persons affected by this ordinance for the infringement of their rights to the free exercise of religion.

COUNT TWO

THE ORDINANCES ARE FACIALLY UNCONSTITUTIONAL BECAUSE THEY UNREASONABLY INFRINGE UPON THE FREEDOM OF SPEECH, IN VIOLATION OF THE FIRST AND FOURTEENTH AMENDMENTS TO THE UNITED STATES CONSTITUTION AND SECTION 11 OF ARTICLE I OF THE OHIO CONSTITUTION

42. The Ordinances improperly subject the exercise of free speech to prior restraint by Village officials and place unreasonable conditions, requirements, and restrictions upon the freedom of speech, in violation of the First and Fourteenth Amendments to the United States Constitution and Section 11 of Article I of the Ohio Constitution.

43. The Ordinances constitute an improper scheme of censorship of expression.

44. The Ordinances chill constitutionally protected expression.

45. The Ordinances grant unreasonable discretion to government officials.

46. There is no adequate remedy at law to compensate persons affected by this ordinance for the infringement of their rights to freedom of speech.

47. The Ordinances are not narrowly tailored to serve a compelling state interest.

48. The Ordinances are overbroad in that even if they do reach some conduct that may constitutionally be subjected to their restrictions, they are applicable to speech and conduct that is protected by the state and federal Constitutions.

COUNT THREE

THE ORDINANCES ARE FACIALLY UNCONSTITUTIONAL BECAUSE THEY UNREASONABLY INFRINGE UPON THE FREEDOM OF THE PRESS, IN VIOLATION OF THE FIRST AND FOURTEENTH AMENDMENTS TO THE UNITED STATES CONSTITUTION AND SECTION 11, ARTICLE I OF THE OHIO CONSTITUTION

49. The Ordinances infringe upon the freedom of the press because they subject the exercise of publication and distribution of written materials to improper prior restraint by Village officials and place unreasonable conditions, requirements, and restrictions, including the requirement of a permit, upon the publication and distribution of written materials.

50. The Ordinances constitute an improper scheme of censorship of written materials.

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51. The Ordinances chill constitutionally protected publication and distribution of written materials.

52. The Ordinances grant unreasonable discretion to government officials.

53. There is no adequate remedy at law to compensate persons affected by this ordinance for the infringement of their rights to publish and distribute written materials.

54. The Ordinances are not narrowly tailored to serve a compelling state interest.

COUNT FOUR

THE ORDINANCES ARE FACIALLY UNCONSTITUTIONAL BECAUSE THEY ARE FATALLY VAGUE, IN VIOLATION OF THE FOURTEENTH AMENDMENT TO THE UNITED STATES CONSTITUTION AND SECTION 16 OF ARTICLE I OF THE OHIO CONSTITUTION

55. The Ordinances do not give constitutionally adequate notice either of the persons or groups to whom they apply or of the conduct that is prohibited, in violation of the guarantees of due process of law of the Fourteenth Amendment to the United States Constitution and Section 16 of Article I of the Ohio Constitution. Terms including but not limited to "canvassers," "solicitors," "hawkers," "promoting," and "cause," in Section 116.01, are susceptible of several meanings, some of which would implicate constitutionally protected activity.

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56. The vagueness of the Ordinances grants unreasonable discretion to government officials and invites arbitrary and discriminatory enforcement.

COUNT FIVE

THE ORDINANCES, AS APPLIED TO THE PLAINTIFFS, UNREASONABLY INFRINGE UPON THEIR FREEDOM OF RELIGION, IN VIOLATION OF THE FIRST AND FOURTEENTH AMENDMENTS TO THE UNITED STATES CONSTITUTION AND SECTION 7, ARTICLE I OF THE OHIO CONSTITUTION

57. The Plaintiffs' religious activities described in paragraphs 13-19 are an exercise of their right to freedom of religion protected by the First and Fourteenth Amendments to the United States Constitution and Section 7, Article I of the Ohio Constitution.

58. In engaging in these activities, the Plaintiffs are not "canvassers, solicitors, peddlers, hawkers, itinerant merchants or transient vendors of merchandise or services," nor do they do anything "for the purpose of advertising, promoting, selling and/or explaining any product, service, organization or cause, or for the purpose of soliciting orders for the sale of goods, wares, merchandise or services."

59. The Defendants' application of the Ordinances to the Plaintiffs to declare their religious practice a "nuisance" and to regulate and limit their religious practice as set

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forth in the Ordinances violates the Plaintiffs' right to the free exercise of religion under the federal and state Constitutions, because the Ordinances impose a prior restraint and unreasonable conditions, requirements, and restrictions upon the free exercise of religion.

60. The Defendants' expressed intention to apply the Ordinances to the Plaintiffs' religious activities chills their exercise of their federal and state constitutional rights to freedom of religion.

61. Application of the Ordinances to the Plaintiffs' religious practices is not narrowly tailored to serve any compelling state interest.

62. The loss of their First Amendment freedoms, for even minimal periods of time, constitutes irreparable injury to the Plaintiffs.

63. The Plaintiffs have no adequate remedies at law.

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COUNT SIX

THE ORDINANCES, AS APPLIED TO THE PLAINTIFFS, UNREASONABLY INFRINGE UPON THEIR FREEDOM OF SPEECH, IN VIOLATION OF THE FIRST AND FOURTEENTH AMENDMENTS TO THE UNITED STATES CONSTITUTION AND SECTION 11, ARTICLE I OF THE OHIO CONSTITUTION

64. The Plaintiffs' activities described in paragraphs 13-19 are an exercise of their right to freedom of speech, protected by the First and Fourteenth Amendments to the United States Constitution and Section 11, Article I of the Ohio Constitution.

65. The Defendants' application of the Ordinances to the Plaintiffs to declare their religious practice a "nuisance" and to regulate and limit their religious practice as set forth in the Ordinances violates the Plaintiffs' right to freedom of speech under the federal and state Constitutions, because the Ordinances impose a prior restraint and unreasonable conditions, requirements, and restrictions upon free speech.

66. The Defendants' expressed intention to apply the Ordinances to the Plaintiffs' activities chills their exercise of their federal and state constitutional rights to freedom of speech.

67. Application of the Ordinances to the Plaintiffs' activities is not narrowly tailored to serve any compelling state interest.

68. The loss of their First Amendment freedoms, for even minimal periods of time, constitutes irreparable injury to the Plaintiffs.

69. The Plaintiffs have no adequate remedies at law.

COUNT SEVEN

THE ORDINANCES, AS APPLIED TO THE PLAINTIFFS, UNREASONABLY INFRINGE UPON THEIR RIGHTS TO FREEDOM OF THE PRESS, IN VIOLATION OF THE FIRST AND FOURTEENTH AMENDMENTS TO THE UNITED STATES CONSTITUTION AND SECTION 11, ARTICLE I OF THE OHIO CONSTITUTION

70. The Plaintiffs' activities described in paragraphs 14-16 and 18 are an exercise of their right to freedom of press, protected by the First and Fourteenth Amendments to the United States Constitution and Section 11, Article I of the Ohio Constitution.

71. The Defendants' expressed intention to apply the Ordinances to the Plaintiffs' activities chills their exercise of their federal and state constitutional rights to freedom of the press.

72. Application of the Ordinances to the Plaintiffs' activities is not narrowly tailored to serve any compelling state interest.

73. The loss of their First Amendment freedoms, for even minimal periods of time, constitutes irreparable injury to the Plaintiffs.

74. The Plaintiffs have no adequate remedies at law.

COUNT EIGHT

THE DEFENDANTS' APPLICATION OF THE ORDINANCES TO THE PLAINTIFFS IS A DEPRIVATION OF THE PLAINTIFFS' CIVIL RIGHTS, IN VIOLATION OF 42 U.S.C. § 1983

75. In applying the Ordinances to the Plaintiffs, the Defendants have deprived and continue to deprive the Plaintiffs of their federal constitutional rights to free exercise of religion, free speech, freedom of the press, and due process of law, all under the First and Fourteenth Amendments to the United States Constitution.

76. The Defendants' application of the Ordinances to the Plaintiffs was and is undertaken under color of state law.

WHEREFORE, the Plaintiffs respectfully request that this Court grant the following relief:

1. Declare the Ordinances to be facially unconstitutional;

2. Declare the Ordinances to be unconstitutional as applied to the Plaintiffs' activities described herein;

3. Preliminarily and permanently enjoin the Defendants, their successors, officers, agents, employees, and all other persons in active concert with them from enforcing, attempting to enforce, or threatening to enforce the Ordinances in any manner that interferes with the Plaintiffs' exercise of their constitutionally protected rights;

4. Adjudge, decree, and declare the rights and other legal relations of the parties to the subject matter here in controversy, in order that these declarations shall have the force and effect of final judgment;

5. Provide for the Court to retain jurisdiction of this matter for the purpose of enforcing this Court's order;

6. Award the Plaintiffs the reasonable costs and expenses of this action, including attorneys' fees, in accordance with 42 U.S.C. § 1988; and

7. Grant such other and further relief as this Court deems just and equitable.

Respectfully submitted,

s/ Susan B. Gellman
Susan B. Gellman (0034375)
Trial Attorney
Benson A. Wolman (0040123)
Nelson E Genshaft (0011023)
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Co-counsel for Plaintiff
Watchtower Bible and Tract
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Facsimile: (914) 878-2060

Co-counsel for Plaintiff Wellsville, Ohio Congregation of Jehovah's Witnesses, Inc.

CERTIFICATE OF SERVICE

I hereby certify that I have served a copy of the foregoing complaint by delivering a copy thereof to Mayor John M. Abdalla, at his office at the Village of Stratton Municipal Building, 136 Third Avenue, Stratton, Ohio 43961, and to Frank Bruzzese, Esq., Village Solicitor, counsel for the Village of Stratton, Ohio and for the Council of the Village of Stratton, at his office at Freifield, Bruzzese, Wehr, Moreland, Straus & Spahn, P.O. Box 1506, Steubenville, Ohio 43952-6506, this 3rd day of June, 1999.

s/ Susan B. Gellman
Susan B. Gellman

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EXHIBIT A

ORDINANCE NO. 1998-5

ORDINANCE REGULATING UNINVITED PEDDLING AND SOLICITATION UPON PRIVATE PROPERTY IN THE VILLAGE OF STRATTON, OHIO, AND AMENDING ORDINANCE NO. 1996-__ OF THE ORDINANCES OF THE VILLAGE OF STRATTON, OHIO.

BE IT ORDAINED BY THE COUNCIL OF THE VILLAGE OF STRATTON, OHIO, that Ordinance No. 1996-06 of the Ordinances of the Village of Stratton, Ohio, which was passed on September, 1996, is hereby amended, by replacing the language of said Ordinance No. 1996-06 in its entirety, with the following language:

BE IT ORDAINED BY THE COUNCIL OF THE VILLAGE OF STRATTON, OHIO, that, pursuant to authority granted in Section 715.61 of the Ohio Revised Code, and pursuant to Home Rule powers vested in the Village under Section 3, Article XVIII of the Ohio Constitution, the Codified Ordinances of the Village of Stratton, Ohio are hereby amended by the adoption of the following Chapter and Codified Ordinance Sections.

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CHAPTER 116

Peddlers and Solicitors

116.01 Uninvited peddling and soliciting declared a nuisance.

116.02 Enforcement.

116.03 Solicitor's Registration and Permit — Prohibition of unregistered solicitation, etc.

116.04 Issuance of permit; fee, content and display; effect.

116.05 Time limitations.

116.06 Denial or Revocation of permit.

116.07 Owner/occupant prohibition — "No Solicitation" Registration.

116.98 Penalty.

CROSS REFERENCES

Power to inspect food products — see Ohio R.C. 715.46
Power to regulate — see Ohio R.C. 715.61 et seq.
Home solicitation sales — see Ohio R.C. 1345.21 et seq.
Charitable solicitations — see Ohio R.C. Ch. 1716
Trespassing — see Ohio R.C. 2909.21
Frozen desserts — see Ohio R.C. 3717.51 et seq.
Littering — see Ohio R.C. 3767.20

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116.01 UNINVITED PEDDLING AND SOLICITING DECLARED A NUISANCE.

The practice of going in and upon private property and/or the private residences of Village residents in the Village by canvassers, solicitors, peddlers, hawkers, itinerant merchants or transient vendors of merchandise or services, not having been invited to do so by the owners or occupants of such private property or residences, and not having first obtained a permit pursuant to Section 116.03 of this Chapter, for the purpose of advertising, promoting, selling and/or explaining any product, service, organization or cause, or for the purpose of soliciting orders for the sale of goods, wares, merchandise or services, is hereby declared to be a nuisance and is prohibited.

116.02 ENFORCEMENT.

The Chief of Police (Village Marshall) and Village Police Officers are hereby required and authorized to abate any such nuisance as is described in Section 116.01.

116.03 REGISTRATION REQUIRED — PROHIBITION OF UNREGISTERED SOLICITATION, ETC.

(a) No canvasser, solicitor, peddler, hawker, itinerant merchant or transient vendor of merchandise or services who is described in Section 116.01 of this Chapter and who intends to go in or upon private property or a private residence in the Village for any of the purposes described in Section 116.01, shall go in or upon such private property or residence without first registering in the office of the Mayor and obtaining a Solicitation Permit.

(b) The registration required by subsection (a) hereof shall be made by filing a Solicitor's Registration Form, at the office of the Mayor, on a form furnished for such purpose. The Form shall be completed by the Registrant and it shall then contain the following information:

(1) The name and home address of the Registrant and Registrant's residence for five years next preceding the date of registration;

(2) A brief description of the nature and purpose of the business, promotion, solicitation, organization, cause, and/or the goods or services offered;

(3) The name and address of the employer or affiliated organization, with credentials from the employer or organization showing the exact relationship and authority of the Applicant;

(4) The length of time for which the privilege to canvass or solicit is desired;

(5) The specific address of each private residence at which the Registrant intends to engage in the conduct described in Section 116.01 of this Chapter; and,

(6) Such other information concerning the Registrant and its business or purpose as may be reasonably necessary to accurately describe the nature of the privilege desired.

116.04 ISSUANCE OF PERMIT; FEE, CONTENT AND DISPLAY.

Each Registrant who complies with Section 116.03(b) shall be furnished a Solicitation Permit. The permit shall indicate that the applicant has registered as required by Section 116.03 of this Chapter. No permittee shall go in or upon any premises not listed on the Registrant's Solicitor's Registration Form.

Each person shall at all times, while exercising the privilege in the Village incident to such permit, carry upon his person his permit and the same shall be exhibited by such person whenever he is requested to do so by any police officer or by any person who is solicited.

Section 116.01 of this Chapter shall not apply and shall not be construed to apply to the holder of a valid permit issued pursuant to this Section.

116.05 TIME LIMITATIONS.

No activity permitted under authority of this chapter shall commence prior to 9:00 a.m. nor continue after 5:00 p.m. This time limitation shall be stated on the permit.

116.06 DENIAL OR REVOCATION OF PERMIT.

Permits described in Section 116.04 of this Chapter may be denied or revoked by the Mayor for any one or more of the following reasons:

(a) Incomplete information provided by the Registrant in the Solicitor's Registration Form.

(b) Fraud or misrepresentation contained in the Solicitor's Registration Form.

(c) Fraud, misrepresentation or false statements made in the course of conducting the activity.

(d) Violation of any of the provisions of this chapter or of other Codified Ordinances or of any State or Federal Law.

(e) Conducting canvassing, soliciting or business in such a manner as to constitute a trespass upon private property.

(f) The permittee ceases to possess the qualifications required in this chapter for the original registration.

The revocation of a permit shall be in addition to any penalty provided in Section 116.99 of the Codified Ordinances of the Village of Stratton, Ohio, or any other penalty that may be imposed upon the permittee in accordance with law.

116.07 OWNER'S/OCCUPANT'S PROHIBITION AGAINST ENTRY.

(a) Notwithstanding the provisions of any other Section of this Chapter 116, any person, firm or corporation who is

the owner or lawful occupant of private property within the territorial limits of the Village of Stratton, Ohio, may prohibit the practice of going in or upon the private property and/or the private residence of such owner or occupant, by uninvited canvassers, solicitors, peddlers, hawkers, itinerant merchants or transient vendors, by registering its property in accordance with Subdivision (b) of this Section and by posting upon each such registered property a sign which reads "No Solicitation" in a location which is reasonably visible to persons who intend to enter upon such property.

(b) The registration authorized by Subsection (a) hereof shall be made by filing a "No Solicitation Registration Form", at the office of the Mayor, on a form furnished for such purpose. The form shall be completed by the property owner or occupant and it shall then contain the following information:

(1) The name and address of the owner or occupant who wishes to prohibit uninvited canvassing, soliciting, peddling, hawking, merchandising and/or transient vending upon the private property of the owner or occupant;

(2) The specific address of each property at which the owner or occupant prohibits such conduct; and,

(3) A written and signed statement which reads:

"I, the undersigned, am the owner or lawful occupant of private property which is described in this No Solicitation Form, and I,

hereby, give notice that I prohibit the practice of uninvited canvassers, solicitors, peddlers, hawkers, itinerant merchants or transient vendors coming upon my private property for the purpose of soliciting the attention of any occupant of that property or for the purpose of advertising, promoting, selling and/or explaining any product, service, organization or cause, or for the purpose of soliciting orders for the sales of any product.

I have posted a sign which reads, "No Solicitation", at the property, and the sign is located so that it is reasonably visible to persons who might be considering entering upon the property.

I consider any person entering upon the property for a prohibited purpose to be a trespasser.

The only exceptions to this prohibition are the persons and organizations listed below:

_____

_____

_____

_____

_____

_____

_____

_____"

(c) No uninvited canvasser, solicitor, peddler, hawker, itinerant merchant or transient vendor of merchandise or services, shall go in or upon the private property of an owner or occupant of property who has registered and posted such property in accordance with Subsections (a) and (b) of this Section, for the purpose of advertising, promoting, selling or explaining any product, service, organization or cause, or for the purpose of soliciting orders for the sale of goods, wares, merchandise or services.

(d) The holder of a permit issued pursuant to Section 116.04 of this Chapter shall not be exempt from the prohibition contained in Subsection (c) of this Section. The holder of such permit shall not go in or upon any private property which has been registered and posted in accordance with Subsection (a) and (b) of this Section, for the purpose of advertising, promoting, selling or explaining any product, service, organization or cause, or for the purpose of soliciting orders for the sale of goods, wares, merchandise or services.

116.99 PENALTY.

(a) Violation of Section 116.01 is a misdemeanor of the fourth degree, the penalty for which is set forth in Section 999.99 of the Codified Ordinances of the Village of Stratton, Ohio.

(b) Violation of Section 116.03 is a misdemeanor of the fourth degree, the penalty for which is set forth in Section 999.99 of the Codified Ordinances of the Village of Stratton, Ohio.

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(c) Violation of Section 116.07(c) is a misdemeanor of the fourth degree, the penalty for which is set forth in Section 999.99 of the Codified Ordinances of the Village of Stratton, Ohio.

(d) Violation of Section 116.07(d) is a misdemeanor of the fourth degree, the penalty for which is set forth in Section 999.99 of the Codified Ordinances of the Village of Stratton, Ohio.

SECTION 2: This Ordinance is hereby declared to be an emergency Ordinance, necessary to the preservation of the public peace, safety and welfare of the citizens of the Village of Stratton, Ohio, and such emergency exists by reason of the fact that the failure to regulate the time and manner of the conduct which is regulated by the above Ordinance, and the failure to identify those engaged in such conduct, creates a risk of unwanted intrusion, annoyance and potential harm to Village residents who are less able, than the Village, to identify and regulate the conduct of persons, corporations, entities and organizations engaged in such conduct.

SECTION 3: This Ordinance shall be in full force and effect immediately upon its passage.

_____
MAYOR

ATTEST: s/ Lola Kakascik
CLERK

Appendix C

CIVIL COVER SHEET

The JS-44 civil cover sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. (SEE INSTRUCTIONS ON THE REVERSE OF THE FORM.)

I. (a) PLAINTIFFS
Watchtower Bible and Tract Society
of New York, Inc. and
The Wellsville, Ohio, Congregation
of Jehovah's Witnesses, Inc.

* * *

(c) ATTORNEYS (FIRM NAME, ADDRESS, AND TELEPHONE NUMBER)
Susan B. Gellman and Benson A. Wolman
Wolman, Genshaft & Gellman
341 S. Third St., Suite 301
Columbus, OH 43215-5463
(614) 280-1000 tel.

(a) DEFENDANTS
The Village of Stratton, Ohio,
Council of the Village of Stratton, Ohio, and
John M. Abdalla, Mayor of the Village of
Stratton, Ohio

* * *

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(c) ATTORNEYS (IF KNOWN)
Frank Bruzzese
Freifield, Bruzzese, Wehr, Moreland,
Straus & Spahn
P.O. Box 1506
Steubenville, OH 43952-6506

II. BASIS OF JURISDICTION (PLACE AN "X" IN ONE BOX ONLY)

* * *

☒ 3 Federal Question
(U.S. Government Not a Party)

* * *

V. NATURE OF SUIT *(PLACE AN "X" IN ONE BOX ONLY)*

* * *

CIVIL RIGHTS

* * *

☒ 440 Other Civil Rights

* * *

Appendix C

VI. CAUSE OF ACTION (CITE THE U.S. CIVIL STATUTE UNDER WHICH YOU ARE FILING AND WRITE BRIEF STATEMENT OF CAUSE. DO NOT CITE JURISDICTIONAL STATUTES UNLESS DIVERSITY.)

42 U.S.C. §§ 1983 and 1985
U.S. Constitution, Amendments 1 and 14

VII. REQUESTED IN COMPLAINT:

* * *

JURY DEMAND: ☐ YES ☒ NO

* * *

DATE
June 3, 1999

SIGNATURE OF ATTORNEY OF RECORD
s/ Susan Gellman

APPENDIX D — MEMORANDUM ORDER OF THE UNITED STATES DISTRICT COURT FOR THE SOUTHERN DISTRICT OF OHIO, EASTERN DIVISION DATED AND FILED AUGUST 6, 1999

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF OHIO
EASTERN DIVISION

Case No. C2-99-526
Judge Edmund A. Sargus, Jr.
Magistrate Judge Abel

Watchtower Bible and Tract Society of New York, Inc., et al.,

Plaintiffs,

V.

Village of Stratton, Ohio, et al.,

Defendants.

MEMORANDUM ORDER

On June 3, 1999, plaintiffs brought this action for preliminary and permanent injunctive relief seeking to enjoin defendants from enforcing a local Ordinance that allegedly interferes with plaintiffs' exercise of their constitutionally protected rights to freedom of religion, freedom of speech, freedom of the press, and due process of law. Plaintiffs, both religious organizations which include practicing Jehovah's Witnesses, allege that the Ordinance is unconstitutional on its face and as applied because it interferes with their First

Amendment right to go door-to-door in the Village of Stratton as part of their religious belief that they should share the Gospel with others. Defendants assert that the Ordinance is a content neutral, narrowly tailored regulation designed to protect the privacy interests of its citizens.

The parties and counsel convened in St. Clairsville, Ohio on July 27, 1999 for a hearing related to the preliminary and permanent injunction issues before the Court. After hearing a day of testimony and upon full consideration of the parties' briefs, the Court ruled from the Bench on plaintiffs' application for preliminary and permanent injunctive relief. This Order serves to memorialize those rulings.

The Village of Stratton, Ohio is a small town of fewer than 300 residents located along the Ohio River. In 1998, the Village passed an Ordinance that regulated the activities of solicitors and canvassers in the town. Generally, the Ordinance was designed to protect the privacy rights of the Village residents. According to the testimony of Frank Bruzzese, Village of Stratton Solicitor, the Ordinance was constructed to protect the Village residents from "flim flam" con artists who prey on small town populations.

It is without question that the Village of Stratton, through the powers accorded Ohio municipalities under Article XVIII, Section 3 of the Ohio Constitution, has the authority to promulgate local laws concerning public health, safety, and welfare. *Cincinnati N & C Ry. Co. v. Cincinnati*, 71 F.2d 124 (6th Cir. 1934). The valid police powers possessed by the various states and delegated to municipalities are, of course, restricted by the various rights set forth in the Constitution, particularly the First Amendment.

Appendix D

The Village Ordinance at issue is Ordinance No. 1998-5, which includes solicitor registration requirements and regulations. The Court must first determine whether this Ordinance applies to plaintiffs as Jehovah's Witnesses. Section 116.01 is the introductory statement of the Ordinance that prohibits uninvited soliciting within the Village of Stratton.[1] The Court finds that Ordinance No. 1998-5 does apply to plaintiffs because Jehovah's Witnesses are "canvassers" who visit homes in neighborhoods for the purpose of "explaining" their "cause," the Gospel of Jehovah. Therefore, the activities of the Jehovah's Witnesses are encompassed by the provisions of Ordinance No. 1998-5.

By the terms of the Ordinance, if a person or entity seeks to engage in conduct defined in Section 116.01, such party must first obtain a valid permit. Section 116.03 of the

1. Section 116.01 provides as follows:

> The practice of going in and upon private property and/or the private residences of Village residents in the Village by canvassers, solicitors, peddlers, hawkers, itinerant merchants or transient vendors of merchandise or services, not having been invited to do so by the owners or occupants of such private property or residences, and not having first obtained a permit pursuant to Section 116.03 of this Chapter, for the purpose of advertising, promoting, selling and/or explaining any product, service, organization or cause, or for the purpose of soliciting orders for the sale of goods, wares, merchandise or services, is hereby declared to be a nuisance and is prohibited.

See Plaintiffs' Trial Exhibit 1.

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Ordinance speaks to the registration requirements for potential Village canvassers.[2] No fee is required to obtain a

2. Section 116.03 of the Ordinance states as follows:

> (a) No canvasser, solicitor, peddler, hawker, itinerant merchant or transient vendor of merchandise or services who is described in Section 116.01 of this Chapter and who intends to go in or upon private property or a private residence in the Village for any of the purposes described in Section 116.01, shall go in or upon such private property or residence without first registering in the office of the Mayor and obtaining a Solicitation Permit.
>
> (b) The registration required by subsection (a) hereof shall be made by filing a Solicitor's Registration Form, at the office of the Mayor, on a form furnished for such purpose. The Form shall be completed by the Registrant and it shall then contain the following information:
>
> (1) The name and home address of the Registrant and Registrant's residence for five years next preceding the date of registration;
>
> (2) A brief description of the nature and purpose of the business, promotion, solicitation, organization, cause and/or the goods or services offered;
>
> (3) The name and address of the employer or affiliated organization, with credentials

(Cont'd)

permit. The Court finds that subsections (1 – 4) of Section 116.03(b) are valid, content neutral governmental regulations designed for the safety and security of the Village residents. Subsections (1 – 4) do not infringe upon plaintiffs' First Amendment rights of speech, religion, or free press. The Court views subsection (5), which requires listing the specific address of each private Village residence a Registrant intends to visit, as an onerous regulation that could potentially violate the exercise of constitutional rights. The burden of this provision, however, is cured by the Village allowing a Registrant to attach to the Registration Form a list of willing Village residents which is provided by the Mayor's office.[3] Failure on the part of the Village to make such lists readily available at no cost may render the Ordinance unconstitutional.

(Cont'd)

from the employer or organization showing the exact relationship and authority of the Applicant;

(4) The length of time which the privilege to canvass or solicit is desired;

(5) The specific address of each private residence at which the Registrant intends to engage in the conduct described in Section 116.01 of this Chapter; and

(6) Such other information concerning the Registrant and its business or purpose as may be reasonably necessary to accurately describe the nature of the privilege desired.

3. The Court suggests that the Registrant be informed of this procedure somewhere on the Registration Form.

Subsection (6) requires applicants to provide information concerning the purpose of the canvassing activities "as may be reasonably necessary to accurately describe the nature of the privilege desired."[4] Just as business or political canvassers are required to be identified, Jehovah's Witnesses may also be required to state their business "as may be reasonably necessary to accurately describe the nature of the privilege desired." Ordinance No. 1998-5, Section 116.03(b)(6). While lesser known organizations, particularly those marketing commercial products or soliciting only for contributions, may need to provide additional information, this Court finds that, in order for subsection (6) to meet constitutional scrutiny, the plaintiff need only note on the application that it seeks to canvass as part of the Jehovah's Witness ministry. Based upon this interpretation, the Court finds Section 116.03 of the Ordinance to be constitutional on its face.

The Court notes that several groups were granted permission to solicit within the Village outside the time limits set forth in Section 116.05 of the Ordinance. Specifically, at least six separate solicitors for school fundraisers were permitted to canvas the neighborhoods in Stratton after 5:00 p.m. See Defendants' Trial Exhibits 35 A-F. In the event that other groups, including plaintiffs, are denied a permit for the same number of hours, the Village will subject itself to future claims that the application of the Ordinance is not neutral and is violative of the First Amendment. At this juncture, the Court is not willing to reach such a conclusion,

---

4. As the Court noted during the hearing, the exercise of a constitutional right is not a "privilege" and to that extent the Ordinance mischaracterizes the issue. Such mischaracterization does not, however, by itself render the Ordinance unconstitutional.

in that no such request for a similar permit has been made by either plaintiff.

The Court's greatest concern is the language set forth in Section 116.05 of the Ordinance which relates to time limitations of solicitations. Section 116.05 states that "[n]o activity permitted under authority of this chapter shall commence prior to 9:00 a.m. nor continue after 5:00 p.m. . . . ." The Court finds this provision of the Ordinance to be an invalid restriction of a canvasser's right to visit homes during reasonable hours. Section 116.05 unnecessarily chills the plaintiffs' First Amendment right to speech. Both solicitors or solicitees may be unavailable during these hours. In the summer months, these time limits exclude up to four hours of daylight, 5:00 p.m. to 9:00 p.m., during which constitutionally protected activities may occur.

It has long been recognized that any regulation of canvassing or soliciting "must be done, and the restriction . . . applied, in such a manner as not to intrude upon the rights of free speech and free assembly." *Thomas v. Collins*, 323 U.S. 516, 540-41 (1945). It is also beyond dispute that solicitation is a form of speech protected by the First Amendment. *Heffron v. International Society for Krishna Consciousness*, 452 U.S. 640 (1981).

A municipality may lawfully act to protect the peaceful enjoyment of local homes by its citizens. *Wisconsin Action Coalition v. City of Kenosha*, 767 F.2d 1248, 1258 (7th Cir. 1985). At the same time, any such local regulation must be precisely tailored to advance the governmental interest in a manner least restrictive of First Amendment rights.

New Jersey Citizen Action v. Edison Tp., 797 F.2d 1250 (3d Cir. 1986).

A number of circuit courts have invalidated local ordinances purporting to ban solicitation or canvassing during daylight hours. See *Wisconsin Action Coalition, supra*; and *New Jersey Citizen Action, supra*. Recently, in *Ohio Citizen Action v. City of Seven Hills*, 35 F. Supp.2d 575 (N.D. Ohio 1999), the Court invalidated a local ordinance imposing a 5:00 p.m. curfew on canvassing. As noted in *National People's Action v. Village of Wilmette*, 914 F.2d 1008, 1012 (1990), "[e]ven a temporary deprivation of a First Amendment freedom of expression is generally sufficient to prove irreparable harm."

The Court also notes that any citizen may post "no trespassing" signs and prevent entry by canvassers or solicitors. Local governments and police are certainly authorized to prosecute trespassers under appropriate criminal laws. It is, however, for citizens and not government to choose whether private property is to be a forum for the expression of First Amendment rights.

The Court finds that to the extent canvassing is limited to 5:00 p.m. in the evening, Section 116.05 of the Ordinance is unconstitutional on its face. The Court, therefore, **ORDERS** that Section 116.05 of the Ordinance be modified to allow covered activities, including welcome door-to-door solicitation, to occur during reasonable hours of the day. This may be easily accomplished by listing reasonable times on a month to month basis.

As a corollary issue, the Court notes that page three of the Registration Form consists of a listing of specific organizations or causes that a Registrant may check to more specifically identify itself. *See e.g.*, Defendants' Trial Exhibit 34-A. Item No. 6 reads "Jehovah [sic] Witnesses." No other religious group is listed separately or singled out on this list. In fact, item No. 17 of the listing reads, "Persons Affiliated with _____ Church _____." Although the Registration Form is an administrative form designed to facilitate compliance with the Ordinance, its language and its form must be content neutral. The Court finds that item No. 6 unnecessarily isolates the Jehovah's Witnesses as a group and **ORDERS** this item stricken from the Registration Form.

Finally, at the conclusion of the hearing and after completion of the presentation of evidence, defendants argued for the first time that plaintiff Watchtower Bible and Tract Society of New York, Inc. and the Wellsville, Ohio Congregation of Jehovah's Witnesses, Inc. are not proper parties to this action because both registrations with the Ohio Secretary of State had lapsed.[5] Plaintiff the Wellsville, Ohio Congregation of Jehovah's Witnesses, Inc. argued that during the time that its registration had lapsed, it was still a *de facto* corporation and still a viable legal entity able to bring suit. *See Antioch Baptist Church of Canton v. Jordan*, 1999 WL 333335 (Ohio App. 5 Dist.) (citing *Hines v. Board of Education of the Cleveland City School District* (1985), 26 Ohio Misc.2d 15, 18, 499 N.E.2d 39, citing *I.J. Goldstein*

5. The Court notes its displeasure with defendants for the untimeliness of this argument. The Court, which has otherwise been impressed with the lawyering in this matter, is dismayed that this issue was not raised earlier in the proceedings.

Company v. Mitchell (1921), 14 Ohio App. 231). Plaintiffs presented testimony from Mr. Virsil Koontz, an elder in the Jehovah's Witness Congregation of Wellsville, who stated that he had no knowledge that the state registration of the local congregation or the national governing body of Watchtower corporation had lapsed at any time and that the congregation has continued to operate as if it was duly licensed.

The Court makes only a preliminary finding at this stage that defendants' motion is not well-taken as to the Wellsville, Ohio Congregation of Jehovah's Witnesses, Inc. The Court, hereby, **ORDERS** defendants to brief the issue of whether the lapse of a corporate registration with the Secretary of State affects the legal capacity of the corporation. This brief shall be filed no later than July 29, 1999. Plaintiffs shall respond by August 5, 1999 with defendants reply brief due on August 12, 1999.

In sum, plaintiffs' motion for preliminary injunction is **GRANTED IN PART AND DENIED IN PART.** The Court finds that Ordinance No. 1998-5 applies to plaintiffs. The Court further finds Ordinance No. 1998-5, Section 116.05 to be an invalid, unconstitutional infringement upon plaintiffs' First Amendment rights. Finally, the Court reserves final ruling on the issue of whether plaintiff Watchtower Bible and Tract Society of New York, Inc. is a proper party to this action.

IT IS SO ORDERED.

8-6-99
Date

s/ Edmund A. Sargus, Jr.
Edmund A. Sargus, Jr.
United States District Judge

APPENDIX E — ORDER OF THE UNITED STATES DISTRICT COURT FOR THE SOUTHERN DISTRICT OF OHIO, EASTERN DIVISION DATED AND FILED AUGUST 18, 1999

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF OHIO
EASTERN DIVISION

Case No. C2-99-526
Judge Edmund A. Sargus, Jr.
Magistrate Judge Abel

Watchtower Bible and Tract Society of New York, Inc., et al.,

Plaintiffs,

V.

Village of Stratton, Ohio, et al.,

Defendants.

ORDER

Defendants have withdrawn their defenses regarding the capacity to sue by plaintiffs Watchtower Bible and Tract Society of New York, Inc. and Wellsville, Ohio Congregation of Jehovah's Witnesses, Inc. The issue of capacity to sue was left open after the Court heard testimony on plaintiffs' motion for preliminary and permanent injunction. With defendants having withdrawn their defense to this issue, the Court now issues a Final Order granting in part and denying in part

plaintiffs' motion for preliminary and permanent injunction (Doc. 3). The Court incorporates by reference its reasoning and rulings from its August 6, 1999 Memorandum and Order.

This case is **DISMISSED.**

IT IS SO ORDERED.

8-18-99
Date

s/ Edmund A. Sargus, Jr.
Edmund A. Sargus, Jr.
United States District Judge

APPENDIX F — JUDGMENT OF THE UNITED STATES DISTRICT COURT FOR THE SOUTHERN DISTRICT OF OHIO DATED AND FILED AUGUST 18, 1999

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF OHIO

Case No: **C2-99-526**
Judge Sargus
Magistrate Judge Abel

Watchtower Bible and Tract Society of New York, Inc., et al.,

Plaintiffs,

v.

Village of Stratton, Ohio, et al.,

Defendants.

JUDGMENT IN A CIVIL CASE

* * *

[X] **Decision by Court.** This action came to trial or hearing before the Court. The issues have been tried or heard and a decision has been rendered.

* * *

Appendix F

IT IS ORDERED AND ADJUDGED that this case is hereby **DISMISSED** pursuant to the Court's August 18, 1999 *Order* and August 6, 1999 *Memorandum and Order* granting in part and denying in part plaintiffs' motion for preliminary and permanent injunction.

August 18, 1999
Date

KENNETH J. MURPHY
Clerk

s/ Michael Carey
(By) Deputy Clerk
Michael Carey

APPENDIX G — OPINION OF THE UNITED STATES COURT OF APPEALS FOR THE SIXTH CIRCUIT DATED, DECIDED AND FILED FEBRUARY 20, 2001

UNITED STATES COURT OF APPEALS
FOR THE SIXTH CIRCUIT

Nos. 99-4087;
00-3325

WATCHTOWER BIBLE AND TRACT SOCIETY OF NEW YORK, INC.;
WELLSVILLE, OHIO, CONGREGATION OF
JEHOVAH'S WITNESSES, INC.,

Plaintiffs-Appellants
(99-4087)/Appellees,

v.

VILLAGE OF STRATTON, OHIO; JOHN M. ABDALLA,
Mayor of the Village of Stratton, Ohio,
in His Official Capacity,

Defendants-Appellees/
Appellants (00-3325).

Appeal from the United States District Court
for the Southern District of Ohio at Columbus.
No. 99-00526 — Edmund A. Sargus, Jr., District Judge.

Argued: September 21, 2000

Decided and Filed: February 20, 2001

Appendix G

Before: MERRITT, KENNEDY, and GILMAN,
Circuit Judges.

* * *

KENNEDY, J., delivered the opinion of the court, in which MERRITT, J., joined. GILMAN, J. (pp. 26-30), delivered a separate opinion concurring in part and dissenting in part.

OPINION

KENNEDY, Circuit Judge. This case comes to the court on the consolidated appeals of plaintiffs, Watchtower Bible and Tract Society of New York, Inc. and Wellsville, Ohio, Congregation of Jehovah's Witnesses, Inc.; and of defendants, the Village of Stratton, Ohio, and its Mayor, John M. Abdalla. Plaintiffs appeal the district court's judgment denying portions of their First Amendment challenges to the Village's solicitation and canvass ordinance. On appeal they argue that the ordinance is facially unconstitutional because it is overly broad and vague, and, as applied, the ordinance violates their rights to free speech and free exercise of religion. Defendants appeal the district court's judgment awarding plaintiffs attorneys' fees as a prevailing party in the First Amendment litigation. They argue that the court erred in finding that plaintiffs were entitled to attorneys' fees, and in the alternative, if this court determines that plaintiffs were entitled to such fees, the amount the court awarded was unreasonable.

Because the ordinance is neither unconstitutionally overbroad nor vague and it is narrowly tailored to serve

significant government interests, we affirm the district court's judgment finding the majority of the ordinance constitutionally permissible. And because the district court did not abuse its discretion in awarding plaintiffs reasonable attorneys' fees, we affirm that judgment as well.

I. FACTS

This dispute centers on the Village of Stratton's ordinance regulating the soliciting and canvassing of private homes in the Village. By its terms, the ordinance applies to "canvassers, solicitors, peddlers, [or] hawkers" that go on a private residence in the Village for the "purposes of advertising, promoting, selling and/or explaining any product, service, organization or cause." Such individuals must first register with the Office of the Mayor by filling out a Registration Form. The Registration Form requires the individuals to furnish information about their cause, why they are canvassing, which residences they intend to canvass, how long they intend to canvass, and any "other information concerning the Registrant[s] and [their] business or purpose as may be reasonably necessary to accurately describe the nature of the privilege desired."[1] Once the individuals have

1. Specifically, the relevant section of the Ordinance reads:

> The Form shall be completed by the Registrant and it shall then contain the following information:
>
> (1) The name and home address of the Registrant and Registrant's residence for five years next preceding the date of registration;
>
> (Cont'd)

registered, they "shall be furnished a Solicitation Permit" unless the Mayor determines that they (1) failed to complete the Registration Form, (2) provided fraudulent information on the form, (3) made false or fraudulent statements or misrepresentations while canvassing, (4) violated any other local, state, or federal laws, (5) trespassed while canvassing, or (6) ceased to possess the qualifications required to obtain a Solicitation Permit.[2] No fee is required to obtain a permit. Upon obtaining a permit, the canvassers may canvass any

(Cont'd)

> (2) A brief description of the nature and purpose of the business, promotion, solicitation, organization, cause, and/or the goods or services offered;
>
> (3) The name and address of the employer or affiliated organization, with credentials from the employer or organization showing the exact relationship and authority of the Applicant;
>
> (4) The length of time for which the privilege to canvass or solicit is desired;
>
> (5) The specific addresses of each private residence at which the Registrant intends to [canvass]; and
>
> (6) Such other information concerning the Registrant and its business or purpose as may be reasonably necessary to accurately describe the nature of the privilege desired.

2. For the purposes of this opinion, we will refer to any activity covered by the ordinance as canvassing and those individuals engaging in such activities as canvassers.

private residence in the Village between the hours of 9:00 a.m. and 5:00 p.m., provided the owner of the residence has not filed a No Solicitation Form with the Mayor's Office and has not posted a No Solicitation Sign on his property. Prior to this litigation, a No Solicitation Form contained a list of various organizations next to which the resident could place a checkmark to indicate the organizations the resident wished to be excluded from this general prohibition. While the No Solicitation Form listed several organizations by name, the only religious organization it listed by name was the Church of Jehovah's Witnesses.

If individuals covered by the ordinance fail to comply with these requirements, they could be charged with a misdemeanor of the fourth degree.

Plaintiffs challenged the ordinance in district court seeking a declaratory judgment that the ordinance is unconstitutional on its face and as applied to them and seeking a permanent injunction prohibiting the Village from enforcing the ordinance against them. After conducting a bench trial on the matter, the district court found that the ordinance applied to plaintiffs as they were "canvassers" seeking to explain their "cause." Moving to the constitutionality of the ordinance, the court rejected most of plaintiffs' arguments as without merit. The court did, however, find three provisions of the ordinance and one provision of an administrative form — some of which plaintiffs did not specifically challenge in their complaint — potentially constitutionally troubling, and therefore, took action to address those concerns. First, the court found that the 5:00 p.m. time restraint contained in the ordinance was an

unreasonable restriction on time and ordered the Village to change the time restraint to allow for canvassing during all daylight hours. Second, it found that the section of the No Solicitation Form which singled out Jehovah's Witnesses was unconstitutional and ordered the Village to delete any reference to Jehovah's Witnesses from the No Solicitation Form. Third, it found that in order for the ordinance's "additional information" requirement to be constitutional, Jehovah's Witnesses need only "note on the application that [they] seek[ ] to canvass as part of the Jehovah's Witness." Accordingly, the court construed the provision to require only that. Finally, it found that requiring plaintiffs to list on the Registration Form each residence they intended to visit was "an onerous regulation that could potentially violate the exercise of constitutional rights"; however, this problem was cured by the "Village allowing a Registrant to attach to the Registration Form a list of willing Village residents which is provided by the Mayor's office." It appears from the record that this was a voluntary measure taken by the Village prior to the lawsuit.

Unsatisfied with the scope of this relief, plaintiffs filed a timely notice of appeal from the court's judgment. The notice reads, "Plaintiffs . . . hereby appeal . . . those parts of the [district court's] Order . . . which uphold the constitutionality [—] facially and as applied to the Plaintiffs" — of the ordinance.[3]

---

3. Plaintiffs are not appealing the portion of the ordinance the district court found unconstitutional and revised nor do they question the legitimacy of that ruling. Consequently, those questions are not before us. While we would likely have no problems with the court's

(Cont'd)

In addition to filing an appeal, plaintiffs, based upon the judgment on the merits, filed a motion for attorneys' fees pursuant to 42 U.S.C. § 1988. The district court determined that plaintiffs were a prevailing party and therefore entitled to attorneys' fees. After reducing the requested award, the court awarded plaintiffs $58,892.41 in attorneys' fees and costs. Defendants filed a timely notice of appeal from that judgment.

The appeals are now consolidated and before us.

II. CONSTITUTIONALITY OF THE ORDINANCE

The First Amendment to the United States Constitution provides, "Congress shall make no law . . . prohibiting the free exercise [of religion]; or abridging the freedom of speech, or of the press." U.S. CONST. amend. I. The Supreme Court has made the First Amendment's prohibitions applicable to the states through the Fourteenth Amendment. *See Cantwell v. Connecticut*, 310 U.S. 296, 303 (1940). Because state

(Cont'd)
decision to strike the time restriction provision from the ordinance as we believe it is severable under Ohio law, *see Women's Med. Prof'l Corp. v. Voinovich*, 130 F.3d 187, 202-03 (6th Cir. 1997), we would have a more difficult time with the court's attempt to rewrite that provision, *see Wilson v. National Labor Relations Bd.*, 920 F.2d 1282, 1289 (6th Cir. 1990) (recognizing that "courts cannot judicially redraft statutory language"). We are not concerned with the court's revision of the administrative forms as they are not part of the ordinance. Likewise, we are not concerned by the construction of the "additional information" provision of the ordinance, as courts routinely construe legislation so as to avoid constitutional problems.

action includes municipal ordinances adopted under state authority, *see Lovell v. City of Griffin*, 303 U.S. 444, 450 (1938), the prohibitions extend to ordinances such as the one promulgated by Stratton. And because Stratton's ordinance requires canvassers to register prior to canvassing, it "carries with it (unless properly constrained) the power directly and substantially to affect speech" and must therefore undergo Free Speech Clause analysis. *Riley v. National Fed'n of the Blind*, 487 U.S. 781, 801 (1988). And for similar reasons, it must also undergo Free Exercise Clause analysis.

A. Free Speech Challenges

Plaintiffs contend that the ordinance's requirement that canvassers register prior to canvassing fails the Free Speech Clause analysis both facially and as applied to them. Predictably, much of their argument is dedicated to attempting to convince us that the ordinance is subject to strict scrutiny. And as equally predictable, the Village dedicates a large portion of its brief to arguing that the ordinance is subject to some lower level of scrutiny.

1. Level of Judicial Scrutiny

As an initial matter, we note that the Supreme Court has not set forth a framework for determining what level of scrutiny to apply to laws that require an individual to obtain a permit prior to going door-to-door. It has, however, established a framework for answering the question in the context of laws requiring an individual to obtain a permit prior to engaging in speech in a public forum. *See Forsyth County v. Nationalist Movement*, 505 U.S. 123 (1992).

We conclude that the analytical framework set forth there applies to this ordinance as well. We reach this conclusion because, in discussing what standard applied to the County's ordinance, the Court characterized its analysis as one of whether the law's restrictions on speech were reasonable in the context of time, place, and manner. As that analysis applies to all laws through which government regulates oral or written expression, *see Clark v. Community for Creative Non-Violence*, 468 U.S. 288, 299 n.8 (1984), and the ordinance regulates oral and written expression, it is subject to the reasonable, time, place, and manner analysis.[4]

Under that framework, a law that is content based is subject to strict scrutiny. *See Turner Broad. Sys., Inc. v. Federal Communications Comm'n*, 512 U.S. 622, 642 (1994). On the other hand, a law that is content neutral and of general applicability is subject to some form of intermediate scrutiny. *See Community for Creative Non-Violence*, 468 U.S. at 293.

Using that framework, the district court determined that the ordinance was content neutral and of general applicability and therefore subject to intermediate scrutiny. Plaintiffs argue that the district court erred and urge us to review the ordinance under strict scrutiny. Strict scrutiny applies, they argue, because the ordinance potentially infringes upon two constitutionally protected rights — freedom of speech and freedom of religion — thereby making their claim a "hybrid

4. The alternative would be to analyze the ordinance under the standard set forth in *United States v. O'Brien*, 391 U.S. 367 (1968), and its progeny. That standard "is little, if any, different from the standard applied to time, place, or manner restrictions." *Community for Creative Non-Violence*, 468 U.S. at 298.

rights" claim. And, they continue, the Supreme Court in *Employment Division v. Smith*, 494 U.S. 872 (1990), established that such claims subject the law in question to strict scrutiny. Hybrid rights claims aside, they argue, strict scrutiny applies because the ordinance discriminates based on the content of the speech. That discrimination is evidenced by the reference to Jehovah's Witnesses in the No Solicitation Form and the Mayor's testimony that he would not furnish Jehovah's Witnesses with an exemption from the time restraints. In either case, they conclude, we must apply strict scrutiny when reviewing the ordinance.

We cannot agree. Our review of the ordinance leads us to conclude it is content neutral and of general applicability, and hence, subject to intermediate scrutiny. A law is content neutral and of general applicability if on its face and in its purpose it does not make a distinction between favored and disfavored speech. *See Turner Broad.*, 512 U.S. at 642-50. On its face, there is no indication that the ordinance distinguishes between favored and disfavored speech; it requires all individuals seeking to canvass to register irrespective of the content of their message. *See Heffron v. International Soc'y for Krishna Consciousness, Inc.*, 452 U.S. 640, 649 (1981). Nor do we find any evidence that the Village's purpose in promulgating the ordinance was to regulate speech based on the message it conveys. Instead, our review indicates that the Village's principal objective in promulgating the ordinance was to prevent fraud and protect the privacy interests of the residents of the Village. *See Ward v. Rock Against Racism*, 491 U.S. 781, 792 (1989).

The evidence plaintiffs cite in support of their argument misses the mark. That the No Solicitation Form listed

Jehovah's Witnesses is not evidence that the Village's purpose in promulgating the ordinance was to restrict their speech; rather, it is evidence of the Village's administration of the ordinance. And that evidence does not indicate that the Village applied the ordinance unequally. It may simply be that Jehovah's Witnesses, along with the other organizations listed on the form, canvassed or solicited more frequently than other groups, thereby making it efficient to place their name on the form. Likewise, the testimony of the Mayor that he would not grant Jehovah's Witnesses an exemption from the ordinance's hours restriction is not evidence of the purpose of the Village in promulgating the ordinance. Nor is it evidence of the Village's application of the ordinance, as plaintiffs have not applied for an exemption. We do note, as the district court did, that were we to find disparate treatment in the granting of exemptions from the time restraints, we would be troubled. However, as our review finds nothing of the sort, we believe the ordinance is neutral on its face and the Village's purpose in promulgating it was content neutral. Therefore, we hold that it is subject to intermediate scrutiny.

In so holding, we reject plaintiffs' assertion that the Supreme Court established in *Employment Division v. Smith* that laws challenged by hybrid rights claims are subject to strict scrutiny. While much debate has revolved around the Court's language in *Smith*, we do not believe the Court held there, nor has it ever held, that a different level of scrutiny applies to laws that potentially affect hybrid rights. In rejecting the plaintiffs' argument that " 'prohibiting the free exercise [of religion]' includes requiring any individual to observe a generally applicable law," the *Smith* Court noted,

> The only decisions in which we have held that the First Amendment bars application of a neutral, generally applicable law to religiously motivated action have involved not the Free Exercise Clause alone, but the Free Exercise Clause in conjunction with other constitutional protections, such as freedom of speech and of the press . . . .

Smith, 494 U.S. at 878, 881. That language was dicta and therefore not binding. Further, as we held in *Kissinger v. Board of Trustees of the Ohio State University*, 5 F.3d 177, 180 (6th Cir. 1993), aside from the fact that the *Smith* Court did not hold that a hybrid rights claim subjects a law to a higher level of scrutiny, the Court did not explain how a hybrid rights claim would alter the level of scrutiny (we note that the one probably had a lot to do with the other). Based in part upon the lack of an explanation from the Court, we declined to alter the standard of scrutiny for laws affecting hybrid rights until the Supreme Court provided guidance. The Court has yet to provide such guidance, and therefore, we adhere to our decision in *Kissinger* and continue to decline to alter the standard of scrutiny. Accordingly, the district court was correct to subject the ordinance to intermediate scrutiny in analyzing the merits of plaintiffs' free speech claims.

2. Merits of Free Speech Claims

It bears emphasis that, contrary to plaintiffs' assertions, Supreme Court dicta is not on their side. On numerous occasions the Court has strongly suggested that registration schemes such as the Village's would pass constitutional muster.

Appendix G

> Nothing we have said is intended even remotely to imply that, under the cloak of religion, persons may, with impunity, commit frauds upon the public. . . . Without doubt a state may protect its citizens from fraudulent solicitation by requiring a stranger in the community, before permitting him publicly to solicit funds for any purpose, to establish his identity and his authority to act for the cause which he purports to represent.

Cantwell, 310 U.S. at 306; *see also Martin v. City of Struthers*, 319 U.S. 141, 148 & n.14 (1943) (making clear that a city "can by identification devices control the abuse of the privilege by criminals posing as canvassers").[5]

---

5. Several of our sister circuits have indicated in dicta that they would reject challenges to the identification portion of solicitation ordinances similar to Stratton's as well. *See, e.g., City of Watseka v. Illinois Public Action Council*, 796 F.2d 1547, 1557 (7th Cir. 1986) ("Watseka's attempt to safeguard its citizens' privacy and protect them from crime is laudable, and the majority of the ordinance's provisions are narrowly tailored to promote Watseka's objectives with only minimal interference with First Amendment rights. Indeed, IPAC is more than willing to comply with Watseka's registration requirements . . . . It is only the 5 p.m. to 9 p.m. complete ban on solicitation that fails to pass constitutional muster . . . ."); *Association of Cmty. Org. for Reform Now v. City of Frontenac*, 714 F.2d 813, 818-19 & n.7 (8th Cir. 1983) ("Frontenac has a legitimate interest in protecting its residents from crime. This objective can be served satisfactorily by enforcement of the city's application and identification for all canvassers, peddlers, and solicitors."). Additionally, the Third Circuit has facially upheld an ordinance requiring canvassers to obtain a license prior to going door-to-door. *See Pennsylvania Alliance for Jobs & Energy v. Council of the Borough of Munhall*, 743 F.2d 182, 188 (3d Cir. 1984).

Appendix G

We begin our review with a brief discussion of the differences between as applied and facial challenges. "If a statute is unconstitutional as applied, the State may continue to enforce the statute in different circumstances where it is not unconstitutional, but if a statute is unconstitutional on its face, the State may not enforce the statute under any circumstances." *Women's Med. Prof'l Corp. v. Voinovich*, 130 F.3d 187, 193 (6th Cir. 1997). Consequently, "a plaintiff's burden in an as-applied challenge is different from that in a facial challenge. In an as-applied challenge, the plaintiff contends that application of the statute in the particular context in which he has acted, or in which he proposes to act, would be unconstitutional." *Id.* Generally, a plaintiff's burden in a facial challenge is higher: the plaintiff must prove that there is no set of circumstances in which the statute's application would be constitutional. *See id.* at 194. That is not the case, however, when the statute regulates speech. Because the remedy for successful facial challenges is broader in scope, we begin our analysis there.

a. Facial Challenges

"In a facial challenge to the overbreadth and vagueness of a law, the court's first task is to determine whether the enactment reaches a substantial amount of constitutionally protected conduct. If it does not, then the overbreadth challenge must fail. The court should then examine the facial vagueness challenge . . . ." *Village of Hoffman Estates v. Flipside, Hoffman Estates, Inc.*, 455 U.S. 489, 494 (1982). We proceed accordingly.

i. Unconstitutionally Overbroad

Plaintiffs argue the ordinance is unconstitutionally overbroad because it would have the effect of prohibiting individuals from going door-to-door to engage in political speech without first obtaining a permit. An effect, they allege, the Supreme Court effectively made unconstitutional in *McIntyre v. Ohio Elections Commission*, 514 U.S. 334 (1995), by invalidating an Ohio statute that prohibited the distribution of anonymous campaign literature. Because requiring individuals engaging in political speech to register before going door-to-door would effectively prevent them from remaining anonymous, they conclude, the ordinance is unconstitutional. They are mistaken.

McIntyre's holding misses Stratton's ordinance. The *McIntyre* Court established a First Amendment right to distribute political pamphlets anonymously. *See id.* at 357. We agree that read broadly, the opinion arguably includes in that right the ability to speak to others anonymously. But we do not understand how Stratton's ordinance inhibits this right. As we see it, individuals going door-to-door to engage in political speech are not anonymous by virtue of the fact that they reveal a portion of their identities — their physical identities — to the residents they canvass. In other words, the ordinance does not require canvassers going door-to-door to reveal their identities; instead, the very act of going door-to-door requires the canvassers to reveal a portion of their identities.

While the ordinance requires political canvassers to reveal the remainder of their identities, i.e., their names, we

do not believe that requirement rises to the level of impinging on First Amendment protected speech the Court sought to protect by fashioning the right in *McIntyre*. By creating a right of anonymity, the Court sought "to protect unpopular individuals from retaliation — and their ideas from suppression." *Id.* Once the political canvassers are before the resident, the ability to protect them from those dangers is substantially diminished. Accordingly, there is little reason to read the Court's holding as protecting political canvassers from being required to reveal a portion of their identities when their very activity will reveal other portions of their identity and subject them to scrutiny.[6]

ii. Unconstitutionally Vague

A law is unconstitutionally vague when it does not afford a "person of ordinary intelligence a reasonable opportunity to know what is prohibited," *Grayned v. City of Rockford*, 408 U.S. 104, 109 (1972), or when it authorizes or encouragers arbitrary and discriminatory enforcement, *see Kolender v. Lawson*, 461 U.S. 352, 357 (1983). Put more specifically, a statute is vague when the state has "fail[ed] to provide such minimal guidelines" that would prevent "a standardless sweep [that] allows policemen, prosecutors, and juries to pursue their personal predilections." *Kolender*, 461 U.S. at 358 (quoting *Smith v. Goguen*, 415 U.S. 566, 575 (1974)) (alterations in the original). The ordinance is such a

6. Even if *McIntyre* were implicated, we would find the ordinance constitutional on its face. In reviewing Ohio's statute, the Court applied strict scrutiny. As we have already noted, we are reviewing Stratton's ordinance under intermediate scrutiny. We believe the difference in scrutiny would be outcome determinative.

law, plaintiffs contend, because the meanings of the terms "solicitor," "canvasser," and "cause" are not clear. They offer no explanation for why "solicitor" and "canvasser" are vague; but contend that the Supreme Court has found the term "cause" to be vague.

We find no merit in any of these assertions. Only the last assertion requires any explanation. According to plaintiffs, the Supreme Court's decision in *Hynes v. Mayor & Council of the Borough of Oradell*, 425 U.S. 610 (1976), established that "the word 'cause' is unconstitutionally vague." Specifically, they point to footnote five of the opinion which states, "In the circumstances of this case these allegations are enough to put in issue the precision or lack of precision with which the ordinance defines the *categories* of 'causes' it covers." *Hynes*, 425 U.S. at 621 n.5 (emphasis added). The language plaintiffs quote defeats their argument. As the language indicates, in finding the ordinance vague, the Supreme Court did not criticize the use of the word cause, rather it criticized the ordinance's modification of the word with the phrases "recognized charitable" and "Federal, State, County or Municipal." Specifically, the Court stated that the ordinance "does not explain, for example, whether 'Recognized charitable cause' means one recognized by the Internal Revenue Service as tax exempt, or one recognized by some community agency . . . [and] it is not clear what is meant by a 'Federal, State, County, or Municipal' " cause. *Id.* at 621. Because Stratton's ordinance does not modify the term cause but includes all causes, the holding of and the reasoning in *Hynes* is not applicable.

b. As Applied Challenge[7]

In the context of an as applied challenge, a law requiring registration prior to engaging in speech would pass intermediate scrutiny if it were narrowly tailored to serve a significant government interest and left open ample alternatives for communication. *See Nationalist Movement*, 505 U.S. at 130. If the interest is in redressing past harm or preventing anticipated harms, the government must demonstrate that the harms are real. *See Edenfield v. Fane*, 507 U.S. 761, 770 (1993). An anticipated harm would be considered real if we determined that "there [was] a reasonable ground to fear that serious evil [would] result if free speech [were] practiced" without the regulation. *United States v. National Treasury Employees Union*, 513 U.S. 454, 475 (1995) (internal citations and quotation marks omitted). In making this determination, we pay deference to the predictive judgments of the government. *See Columbia Broad. Sys., Inc. v. Democratic Nat'l Comm.*, 412 U.S. 94, 103 (1973). A law would be considered narrowly tailored to promote the governmental interests if the interest "would be achieved less effectively absent the regulation," *Ward*, 491 U.S. at 799, and the regulation does not "burden substantially

7. Although the Village has not brought an enforcement action against plaintiffs, we believe plaintiffs have standing to proceed on their as applied challenge. *See Babbitt v. United Farm Workers Nat'l Union*, 442 U.S. 289 (1979). Because plaintiffs have "alleged an intention to engage in a course of conduct arguably affected with a constitutional interest, but proscribed by a statute, and there exists a credible threat of prosecution thereunder," they are not "required to await and undergo criminal prosecution as the sole means of seeking relief." *Id.* at 298 (internal citations and quotation marks omitted).

more speech than is necessary" in furthering the interest, id. And finally, while it is unclear exactly what constitutes ample alternatives for communication, it is clear that this standard does not mean the least restrictive means of promoting the interest in question. *See id.* at 797-98.[8]

As applied to them, plaintiffs argue, the ordinance's registration scheme does not meet these standards because it does not promote a significant government interest and is not narrowly tailored to promote the interests that the Village alleges are significant. Specifically, they argue that the Village has no significant interest to promote because (1) its interest in protecting its residents from annoyance in their homes simply is not a significant governmental interest and (2) while a government's interest in preventing fraud is significant, the Village has not shown that there is a real threat of fraud to its residents. The ordinance is not narrowly tailored, they maintain, because it does not leave open ample alternative channels of communication. Given these flaws, they conclude, we must prohibit the Village from enforcing the ordinance against them.

We disagree. There can be little doubt that the governmental interests the Village seeks to promote —

8. The Supreme Court made this clear in *Ward* where it said, "This less restrictive-alternative analysis . . . has never been a part of the inquiry into the validity of a time, place, and manner regulation. . . . Instead, our cases quite clearly hold that restrictions on time, place, or manner of protected speech are not invalid simply because there is some imaginable alternative that might be less burdensome on speech." *Ward*, 491 U.S. at 797 (internal citations and quotation marks omitted).

protecting its residents from fraud and undue annoyance in their homes — are sufficiently significant. *See Ward*, 491 U.S. at 796; *Hynes*, 425 U.S. at 616-17.[9] And, the harm the

9. Contrary to Watchtower's assertions at oral argument, the Court in *Martin v. City of Struthers* did not hold that a government's interest in protecting its residents from undue annoyance in their homes is insufficient to uphold an ordinance such a Stratton's. At best, the Court said that such an interest is insufficient to uphold an ordinance flatly prohibiting door-to-door canvassing. *See Martin*, 319 U.S. at 144. Further, Watchtower's argument demonstrates a misunderstanding of how the ordinance serves the Village's interest in protecting its residents from undue annoyances. The interest primarily supports the portion of the ordinance prohibiting canvassers from going to the doors of residents who have indicated they wish to be left alone. It does so by (1) attaching a criminal penalty to canvassers who ignore those wishes and (2) requiring identification from the canvasser prior to canvassing so that if he does ignore the wishes of the residents, the Village has information that will assist it in prosecuting the canvasser, thereby adding to the likelihood that a canvasser will be deterred from canvassing such residents. Nothing the Supreme Court has said suggests that this is not a sufficient interest to support a municipality promulgating a content-neutral ordinance such as Stratton's. In fact, the Court's opinions seem to suggest the opposite.

> The State's interest in protecting the well-being, tranquility, and privacy of the home is certainly of the highest order in a free society. . . . Our prior decisions have often remarked on the unique nature of the home, the last citadel of the tired, the weary, and the sick, . . . and have recognized that preserving the sanctity of the home, the one retreat to which men and women can repair to escape from the tribulations of their daily pursuits, is surely an important value.

(Cont'd)

Village seeks to prevent — criminals posing as canvassers in order to defraud its residents — is a real threat. While the evidence of this reality is by no means overwhelming, we believe it is sufficient. That evidence consists of the testimony of Helen MacMurray, Ohio Assistant Attorney General; the Village's Mayor; and Frank Bruzzese, the Village's Solicitor. In her testimony, Ms. MacMurray stated that Ohio has had difficulty with several groups that perpetrate frauds by going door-to-door posing as solicitors or canvassers. And the testimony of the Village's Mayor and its Solicitor indicate that the Village was aware of problems in other Ohio cities with door-to-door fraud when it passed the ordinance. Plaintiffs argue the fact that Ohio has had problems with

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(Cont'd)

> One important aspect of residential privacy is protection of the unwilling listener. Although in many locations, we expect individuals simply to avoid speech they do not want to hear . . . , the home is different. That we are captives outside the sanctuary of the home and subject to objectionable speech . . . does not mean we must be captives everywhere. . . . Thus, we have repeatedly held that individual's are not required to welcome unwanted speech into their homes and that the government may protect this freedom.

Frisby v. Schultz, 487 U.S. 474, 484 (1988) (internal citations and quotation marks omitted); *see also Hynes*, 425 U.S. at 616-17. Several of our sister circuits have also held that the state's interest in protecting its citizens from undue annoyance is sufficient to support statutes facing intermediate scrutiny. *See, e.g.*, *Van Bergen v. Minnesota*, 59 F.3d 1541, 1554 (8th Cir. 1995) (finding that Minnesota's interest in protecting its citizens from unwanted annoyances was a sufficient interest to regulate automated telephone calls); *Pennsylvania Alliance for Jobs & Energy*, 743 F.2d at 187.

such fraud is insufficient to establish a real anticipated harm; they would instead require that Stratton itself have had problems with fraud before it could promulgate an ordinance to prevent fraud. That argument ignores the fact that the interest the ordinance promotes is preventing an anticipated harm. If we required the Village to wait until it had trouble with door-to-door fraud, we would be depriving it of a police power the Supreme Court has made clear municipalities possess. It also ignores the principle reaffirmed by the Supreme Court's holding in *City of Erie v. Pap's A.M.*, 529 U.S. 277, 298 (2000), that a city may use evidence from the experiences of other cities that are similarly situated to establish a reasonable ground to believe that an anticipated harm is real. *See also City of Renton v. Playtime Theatres, Inc.*, 475 U.S. 41, 51-53 (1986). As municipalities may take the experiences of other municipalities into account, we pay deference to the Village's predictive judgment and the district court's finding in substance that "there [was] a reasonable ground to fear that serious evil [would] result if free speech [were] practiced" without the ordinance. *National Treasury Employees Union*, 513 U.S. at 475. Accordingly, the Village was entitled to promulgate an ordinance that was narrowly tailored to promote its interests in preventing fraud and in protecting its residents from unwanted annoyance.

And from our review of the record, we believe that is what the Village did. The ordinance promotes the Village's interest in protecting the privacy of its residents by creating additional deterrents for canvassers, including Jehovah's Witnesses, who are considering ignoring a resident's wishes and canvassing the resident's home. A Jehovah's Witness is more likely to respect the resident's wishes not to be

canvassed when a criminal penalty — albeit a light penalty — is connected to such conduct in addition to the threat of civil action. Thus, the penalty attached to canvassing the house of a resident with a No Solicitation Sign more effectively promotes the Village's interest. The ordinance's registration requirements also likely deter Jehovah's Witnesses from canvassing homes with No Solicitation Signs and forms because they are aware that the Village now has information — name, address, organization or cause — helpful in apprehending someone who ignores a resident's wishes. The extra deterrence the ordinance creates promotes the Village's interest in protecting its residents from undue annoyance and that interest "would be achieved less effectively absent the [ordinance]." *Ward*, 491 U.S. at 799.

As to the latter method of furthering the interest — the registration requirement — the dissent misstates the issue. It is not whether the requirement deters by increasing the degree of punishment. Rather it is whether the requirement increases the likelihood of punishment. It does.

The Village's interest in preventing fraud would also be achieved less effectively absent the ordinance. Absent a registration requirement, the Village has no way of assessing whether canvassers are in fact affiliated with an organization such as Jehovah's Witnesses or are instead perpetrators of fraud using a Jehovah's Witnesses claim as cover. Requiring the individuals to identify themselves as having a relationship with the organization provides the Village with information helpful in making this assessment. Consequently, the ordinance better equips the Village in its attempt to turn away perpetrators posing as Jehovah's Witnesses. Moreover, the

requirements go further than anti-fraud laws in deterring such individuals from committing fraud because they know the Village has information that would make it easier to apprehend them were they to do so.

We believe the dissent misunderstands our reasoning and the effect of the registration requirement. Its argument that the requirement burdens substantially more speech than necessary because it requires registration "not only for those wishing to engage in sales transactions — a possible avenue for fraud — but also for those wishing to engage in political, religious, or social advocacy" assumes too much. First, it assumes that the only avenue for engaging in fraud is posing as a sales person. That need not be the only avenue. Second, it assumes that one who intends to engage in fraud by posing as a sales person would be honest enough to inform the Village that he was intending to pose as a sales person and thus would register as such. That is not necessarily the case. It is also possible that the criminal would inform the Village that he was going to engage in political, religious, or social advocacy in order to avoid the registration requirement. It would be nice if the Village had the ability to discern in advance who, or what type of groups, will commit fraud. However, it does not. And absent such ability, the Village does not burden substantially more speech than necessary by requiring all individuals seeking to go door-to-door to register.

Moving to the final requirement of intermediate scrutiny, we believe that the ordinance leaves open ample alternatives of communication. Indeed, the ordinance does not foreclose the option of going door-to-door; one only need register first.

Plaintiffs' argument that the ordinance effectively forecloses that option to them because of their religious convictions, as we will discuss below, is foreclosed by the Court's decision in *Employment Division v. Smith*.[10] Further, there are several alternatives to door-to-door canvassing: Jehovah's Witnesses may spread their message at stores, on street corners, in restaurants, in parks, and other public forums.

This is not to say, as the dissent suggests we are holding, that meeting the ample alternatives requirement alone is sufficient to pass constitutional muster. Indeed, if that were the case, we would have foregone the rest of the analysis, evaluated the alternatives available to Jehovah's Witnesses, and called it a day.

As the ordinance satisfies the ample alternatives as well as the other requirements of intermediate scrutiny, we hold that the ordinance does not violate plaintiffs' free speech rights.

B. Free Exercise Claims

1. Whether the Ordinance is Unconstitutional

We reach the same conclusion with respect to plaintiffs' free exercise challenges. Other than arguments that the ordinance fails strict scrutiny, plaintiffs offer no arguments for why the ordinance violates their free exercise rights.

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10. Plaintiffs and dissent argue that the Village could have included in the ordinance an exception from its requirements for Jehovah's Witnesses. If the Village had included such an exception, however, the ordinance would not be content neutral. Therefore, we do not believe that to be a viable alternative here.

Instead, they cite a handful of Supreme Court cases all of which, they claim, stand for the proposition that the "Supreme Court has continuously held that Jehovah's Witnesses cannot be required to obtain a permit in order to engage in door-to-door religious speech." And that "[i]n not one [of those cases] did the Supreme Court hold that Jehovah's Witnesses must obtain a permit prior to engaging in door-to-door dissemination of Bible-based ideas or literature." That is probably because few of those cases involved an ordinance requiring such a permit. Instead, many of the ordinances flatly prohibited the dissemination of ideas either in a public forum or door-to-door. *See Marsh v. Alabama*, 326 U.S. 501, 504 (1946); *Martin*, 319 U.S. at 142; *Schneider v. New Jersey*, 308 U.S. 147, 154, 156 (1939). The ordinances that did require a permit, unlike the Village's ordinance, left the decision whether to grant the permit at the discretion of a municipal officer. *See Tucker v. Texas*, 326 U.S. 517, 519 (1946); *Cantwell*, 310 U.S. at 302; *Schneider*, 308 U.S. at 158; *Lovell*, 303 U.S. at 451. In short, contrary to plaintiffs' assertions, not one of these cases mandates a finding that the ordinance violates their free exercise rights.

Nor does a general review of the ordinance under current law warrant such a finding. Under recent Supreme Court precedent, a law that is content neutral and of general applicability does not violate an individual's free exercise rights. *See Smith*, 494 U.S. at 879; *Church of Lukumi Babalu Aye, Inc. v. City of Hialeah*, 508 U.S. 520, 531-32 (1993). One that is not content neutral or not of general applicability, on the other hand, must pass strict judicial scrutiny. *See Church of Lukumi Babalu Aye*, 508 U.S. at 531-32.

We find the law to be both content neutral and of general applicability. In the context of free exercise challenges, a law is not content neutral if "the object of the law is to infringe upon or restrict religious practices because of their religious motivation." *Id.* at 532. To determine whether the law has such an object, we look to the language of the law; the operation of the law; and how officials apply the law. *See id.* at 532-35. A law is facially content based if it refers to a religious practice without a discernable secular meaning. *See id.* at 532. The ordinance does not. While the No Solicitation Form did refer specifically to Jehovah's Witnesses, it is not part of the text of the ordinance. Further, the district court ordered the Village to remove that language. The ordinance is also neutral in its operation; it imposes the same burdens on all individuals or organizations seeking to canvass door-to-door. *See id.* at 535. Finally, we believe that the Village officials have applied the ordinance neutrally. There is no indication that the Mayor discriminated against religious organizations in determining whether to grant permits. Indeed, there is little room for him to make any decision once the applicant completes the Registration Form. And contrary to plaintiffs' assertion, the Mayor's statements that he would not grant Jehovah's Witnesses an exemption from the ordinance's time restrictions on canvassing does not compel a finding that he unequally applied the ordinance. He has never applied the ordinance's time restrictions to them because they have never requested an exemption from the restrictions.

We also find that the law is of general applicability. To be generally applicable, the law must not be the product of a government action that, in pursuit of legitimate interests,

"impose[s] burdens only on conduct motivated by religious belief essential to the protection of the rights guaranteed by the Free Exercise Clause." *Id.* at 543. The ordinance is not the product of such action. The Village has made clear that its interest was in preventing fraud and protecting its residents from undue annoyance. In pursuing these ends, the ordinance burdens any individual seeking to canvass door-to-door. As the ordinance is content neutral and generally applicable, we hold that it does not violate plaintiffs' free exercise rights.

2. Exemption from the Ordinance

For the same reason, we deny plaintiffs' request for an exemption from the requirements of the ordinance. Plaintiffs argue that they should be granted an exemption from the ordinance because seeking permission to spread their religious beliefs violates their religious convictions. To support their argument they cite *Wisconsin v. Yoder*, 406 U.S. 205 (1972), for the proposition that where an individual's beliefs are a matter of deep rooted religious convictions and complying with the regulation would violate those convictions, the individual should be granted an exemption from complying with the regulation.

That is not the law. As the Court noted in *Smith*, it "has never held that an individual's religious beliefs excuse him from compliance with an otherwise valid law prohibiting conduct that the State is free to regulate." *Smith*, 494 U.S. at 878-79. Our review indicates that the ordinance is valid, and therefore, plaintiffs must comply with it.

In conclusion, we affirm the district court's judgment that the ordinance does not violate plaintiffs' First

Amendment rights and we deny them an exemption from complying with the ordinance. We now review the Village's challenges to the district court's judgment awarding plaintiffs attorneys' fees.

III. ATTORNEYS' FEES

Briefly, the Village argues that the district court erred in awarding attorneys' fees by concluding (1) that plaintiffs were the prevailing party and (2) that they obtained substantial relief and were thus entitled to compensation for the time their attorneys expended on the entire course of the litigation. It contends that plaintiffs' relief was so small — and not of the type sought — that they cannot be considered the prevailing party. And, even if they are, by no means did they obtain the relief for which they hoped — being exempted from complying with the ordinance — and therefore cannot be considered to have achieved substantial success.

In reviewing an award of attorneys' fees under § 1988, we review the factual findings underlying the district court's determination of prevailing status for clear error and its award of attorneys' fees for abuse of discretion. *See Gregory v. Shelby County*, 220 F.3d 433, 446 (6th Cir. 2000). "A district court abuses its discretion when it relies on clearly erroneous findings of facts" or "when it improperly applies the law or uses an erroneous legal standard." *Owner-Operator Indep. Drivers Ass'n, Inc. v. Bissell*, 210 F.3d 595, 597 (6th Cir. 2000).

We have no trouble agreeing with the district court's conclusion that plaintiffs were in fact the prevailing party.

As a result of the litigation, their legal relationship with the Village was altered in a manner which they sought. *See Hensley v. Eckerhart*, 461 U.S. 424, 433 (1983). The question of whether this success is sufficient to be considered substantial is much tougher. The Village is correct that plaintiffs must still register prior to canvassing, and eliminating that requirement was a focal point of their lawsuit. As it is a close call, we defer to the factual findings of the district court and conclude that it did not abuse its discretion in awarding attorneys' fees in the amount of $39,340.87; $15,464.04 in out of pocket expenses; and $4,087.50 for paralegal costs.

Therefore, we affirm the district court's judgment awarding plaintiffs attorneys' fees and costs.

IV. CONCLUSION

For the foregoing reasons, we affirm the district court's judgments.

Appendix G

CONCURRING IN PART, DISSENTING IN PART

RONALD LEE GILMAN, Circuit Judge, concurring in part and dissenting in part. I agree with the majority that the Village of Stratton's ordinance is not unconstitutionally vague and does not violate the free exercise rights of the Jehovah's Witnesses. Because the ordinance is content neutral on its face, I also agree that intermediate scrutiny is the proper standard applicable to its review. Finally, I agree with the majority's decision to affirm the award of attorneys fees to the Jehovah's Witnesses.

I disagree, however, with the majority's application of the intermediate scrutiny standard, and would hold that the ordinance violates the First Amendment by burdening substantially more speech than is necessary to further the Village's legitimate interests. *See Ward v. Rock Against Racism*, 491 U.S. 781, 799 (1989). Consequently, I would declare that the ordinance's permit requirement is unconstitutional as applied to the Jehovah's Witnesses.

The Supreme Court has long since recognized that the regulation of door-to-door solicitors must comport with the First Amendment. *See Cantwell v. Connecticut*, 310 U.S. 296 (1940) (striking down an ordinance specifically requiring door-to-door solicitors for religious, charitable, or philanthropic causes to first obtain a permit). Content-neutral regulations, on the other hand, are analyzed under an intermediate scrutiny standard of review. *See Ward*, 491 U.S. at 798-99 (applying intermediate scrutiny to content-neutral noise regulations). This standard, however, does not mean that a content-neutral regulation "may burden substantially

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more speech than is necessary to further the government's legitimate interests." *Id.* at 799. Rather, a content-neutral regulation must "focus[ ] on the source of the evils the [government] seeks to eliminate" and "eliminate them without at the same time banning or significantly restricting a substantial quantity of speech that does not create the same evils." *Id.* at 800 n.7.

In the present case, the Village has articulated a legitimate interest in eliminating two evils — fraud and unwanted annoyance. The question, then, is whether the means chosen by the Village to implement its goals significantly restricts a substantial quantity of speech that does not create the same evils. I am of the opinion that the ordinance does just that.

First, by subjecting noncommercial solicitation to its permit requirements, the ordinance restricts a substantial amount of speech unrelated to the prevention of fraud. The ordinance requires a permit not only for those wishing to engage in sales transactions — a possible avenue for fraud — but also for those wishing to engage in political, religious, or social advocacy. Indeed, the Village's own "No Solicitation Registration Form" acknowledges that the ordinance reaches political candidates, Christmas carolers, and campaigners for social issues, none of whom create the threat of fraud that the Village intended to address. The ordinance therefore burdens substantially more speech than is necessary to promote the legitimate government interest of fraud protection. *See Cleveland Area Bd. of Realtors v. City of Euclid*, 88 F.3d 383, 386-90 (6th Cir. 1996) (applying an intermediate scrutiny standard to declare an ordinance unconstitutional that banned all yard signs, concluding that the ordinance

burdened substantially more speech than necessary to promote the legitimate government interest in aesthetics).

The majority emphasizes that "the ordinance does not foreclose the option of going door-to-door; one only need register first." Majority Op. at 20-21. Such an argument implies that because a person can engage in speech once he or she has obtained a permit, all permit requirements are constitutional. This is clearly *not* the law. *See Cantwell*, 310 U.S. at 303-07. Although a permit requirement is not per se invalid, it bears a heavy burden to pass constitutional muster because it gives public officials the power to deny the use of a forum in advance of actual expression. *See Community for Creative Non-Violence v. Turner*, 893 F.2d 1387, 1390 (D.C. Cir. 1990) (finding unconstitutional, on the basis of intermediate scrutiny, an ordinance requiring permits of all people wishing to engage in content-neutral, noncommercial speech on transit authority property, where the "[p]ersons desiring to engage in any organized free speech activities in the . . . forum are subject to the permit requirement"). Consequently, the type of persons and entities subject to the permit requirement must be analyzed to determine an ordinance's impact on speech. *See id.* at 1393.

The majority also states that the Jehovah's Witnesses "may spread their message at stores, on street corners, in restaurants, in parks, and other public forums." Majority Op. at 21. The Supreme Court, however, has stressed the unique role of door-to-door solicitation as a means of communication, stating that "as every person acquainted with political life knows, door to door campaigning is one of the most accepted techniques of seeking political support . . . . Door to door

distribution of circulars is essential to the poorly financed causes of little people." *Martin v. City of Struthers*, 319 U.S. 141, 146 (1943). I believe that this reasoning applies with equal force to the communication of religious beliefs. The availability, therefore, of other outlets for such speech does not alleviate the special burden that this ordinance places on door-to-door solicitation.

The narrowly tailored requirement demands a balance between the legitimate interests of the government and the constitutional rights of individuals. However, the majority opinion concludes in a very generalized way that the Village of Stratton's registration requirement is constitutional because it "more effectively promotes the Village's interest." Majority Op. at 19. But just as the majority accuses the dissent of assuming that those who intend to commit fraud would register as salespeople, the majority assumes (in my view, incorrectly) that those intending to commit fraud would in fact register at all.

As to the Village's asserted interest in protecting homeowners from "unwanted annoyances," this interest can be achieved by less restrictive means, such as by enforcing laws against trespass. *See Discovery Network, Inc. v. City of Cincinnati*, 946 F.2d 464, 473 n.14 (6th Cir. 1991) (finding unconstitutional, even under intermediate scrutiny, a Cincinnati ordinance prohibiting the distribution of commercial handbills on public property because "there are many options available to the city that would address its aesthetic, safety, and proliferation concerns without placing the significant burden on commercial speech that the ordinance does").

Indeed, the Village already effectively achieves its interest in protecting homeowners from unwanted annoyances through the section of the ordinance that forbids solicitation at residences where the homeowners have posted "No Solicitation" signs. The same penalty, a fourth-degree misdemeanor, is imposed for violating the "No Solicitation" section as for violating the registration section of the ordinance. Thus someone who would register because they are deterred by the penalty for failing to do so would presumably already be deterred from ignoring a "No Solicitation" sign, while someone who is willing to risk the penalty imposed for ignoring a "No Solicitation" sign would presumably also be willing to risk the penalty for failing to register. The registration requirement, accordingly, is not narrowly tailored to protect homeowners from unwanted annoyances. *See Ward*, 491 U.S. at 799 (stating that a regulation is narrowly tailored under the intermediate scrutiny standard if it "promotes a substantial government interest that would be achieved less effectively absent the regulation").

"Our cases make clear that in assessing the reasonableness of a regulation [that affects speech], we must weigh heavily the fact that communication is involved." *Grayned v. City of Rockford*, 408 U.S. 104, 116 (1972). Consequently, "[w]hen the Government restricts speech, the Government bears the burden of proving the constitutionality of its actions." *United States v. Playboy Entm't Group, Inc.*, 120 S. Ct. 1878, 1888 (2000). This burden, however, "is not satisfied by mere speculation or conjecture; rather, a governmental body seeking to sustain a restriction on commercial speech must demonstrate that the harms it recites

are real and that its restriction will in fact alleviate them to a *material degree*." *Florida Bar v. Went for It, Inc.*, 515 U.S. 618, 625 (1995) (applying the intermediate scrutiny standard to restrictions on legal advertising) (citations omitted and emphasis added). In this case, the Village of Stratton has failed to demonstrate either the reality of the harm or the efficacy of the restriction.

For all of the reasons set forth above, I would hold that the ordinance's permit requirement is an unconstitutional infringement on the Jehovah's Witnesses' First Amendment rights.

APPENDIX H — ORDER OF THE SUPREME COURT OF THE UNITED STATES ALLOWING CERTIORARI DATED AND FILED OCTOBER 15, 2001

SUPREME COURT OF THE UNITED STATES

No. 00-1737

Watchtower Bible and Tract Society
of New York, Inc., et al.,

Petitioners

v.

Village of Stratton, et al.

ORDER ALLOWING CERTIORARI.
Filed October 15, 2001.

The petition herein for a writ of certiorari to the United States Court of Appeals for the Sixth Circuit is granted limited to Question 2 presented by the petition.

October 15, 2001

APPENDIX I — ADMISSION OF EXHIBITS INTO EVIDENCE — P. 86 HEARING TRANSCRIPT

[86] * * *

MR. POLIDORO: Your Honor, at this time the plaintiffs rest.

THE COURT: All right. Are the defendants ready to proceed?

MR. CANTOR: One moment, Your Honor.

MR. POLIDORO: Your Honor, so —

THE COURT: You may.

MR. POLIDORO: Thank you, judge. So the record is clear, plaintiffs have submitted a list of exhibits as well as defendants with the understanding that both sets of exhibits will be entered into evidence upon stipulation.

THE COURT: I assume there are no objections to any of the exhibits then, counsel.

MR. CANTOR: That is correct.

THE COURT: They will all be admitted.

MR. POLIDORO: Upon that basis we rest.

* * * *

APPENDIX I(1) — PLAINTIFFS' EXHIBIT 3
(MR. BRUZZESE'S LETTER DATED JANUARY 3, 1980)

LAW OFFICE
FREIFIELD, BRUZZESE, WEHR, MORELAND
& ENGLAND CO., L.P.A.
SIXTH FLOOR
FIRST NATIONAL BANK BUILDING
P.O. BOX 1506
STEUBENVILLE, OHIO 43952
TELEPHONE 282-5323
AREA CODE 614

January 3, 1980

Mr. Vercil E. Koontz
1180 Mick Road
Wellsville, Ohio 43968

Dear Mr. Koontz:

I received your letter of December 31, 1979.

I previously forwarded your letter of December 10, 1979, to the Mayor of the Village of Stratton, along with a request, asking the Mayor and the Chief of Police to provide me with the facts which underlay complaints which were called into the police with reference to the Jehovah's Witnesses who were going from door to door.

Without knowing what facts were reported to the police, I cannot render an opinion as to what, if any, ordinance or state law was violated. As of yet, I have not received the response, detailing the facts to me as reported to the police.

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When I receive it, I will inform you as to whether the complaints justify the belief that the people going door to door were in violation of any law.

Thank you for your time and attention.

Sincerely,

s/ Frank J. Bruzzese
FRANK J. BRUZZESE

FJB:rm

APPENDIX I(2) — DEFENDANTS' EXHIBITS 7, 8 (STRATTON, OHIO STREET MAPS)

[Pages 102a-103a submitted as a Lodging]

104a-119a

APPENDIX I(3) — DEFENDANTS' EXHIBIT 10 (PHOTOGRAPHS OF STRATTON, OHIO)

[Pages 104a-119a submitted as a Lodging]

APPENDIX I(4) — DEFENDANTS' EXHIBITS 12, 13 (STRATTON POLICE DEPARTMENT MONTHLY REPORTS DATED AUGUST 1996 AND OCTOBER 1996, RESPECTIVELY)

EXHIBIT 12

Stratton Police Department
Monthly Report for August 1996

08/02/96 (Friday) 11:54 p.m. Assisted a motorist at the Municipal Building with a flat tire.

08/05/96 (Monday) 3:30 p.m. Received a report of a disturbance at the indoor pool.

08/05/96 (Monday) 8:53 p.m. Received a complaint in reference to unauthorized solicitations. Subjects were advised to obtain proper permits before any solicitation was allowed.

08/06/96 (Tuesday) 3:45 p.m. Received a report that a radar detector had been taken from a vehicle which was parked at the indoor pool. Driver stated that the doors of the car were locked but the windows were part way down.

08/06/96 (Tuesday) 8:25 p.m. Cited Ronald M. Melott (20) 2071 Dewey Avenue, East Liverpool, Ohio. Fictitious Registration and Improper Display of Plates.

08/06/96 (Tuesday) 10:25 p.m. Found the man door to the Senior Citizen's Center unlocked. Checked the building and locked the door.

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08/06/96 (Tuesday) 11:47 p.m. Received a complaint in reference to a pickup truck parked on the flyash near the Ohio Edison South Yard area. Advised the driver to remove the vehicle from that area.

08/06/96 (Tuesday) 11:53 p.m. Transported a stranded motorist to Runyon Road off of State Route 152 west of Empire.

08/07/96 (Wednesday) 2:15 p.m. Cited Ronald M. Melott (20) 2071 Dewey Avenue, East Liverpool, Ohio. Fictitious registration/Failure to file for annual registration. Vehicle towed.

08/09/96 (Friday) 6:05 p.m. Received a complaint from a resident of Ekey's Trailer Court in reference to a raccoon that was in her garbage can. Raccoon was removed to the woods and released.

08/09/96 (Friday) 11:10 p.m. At the request of the Jefferson County Sheriff's Department, backed up a Deputy Sheriff at a fight call on Wheatley Street in Empire.

08/11/96 (Sunday) 1:05 a.m. Cited Joseph L. Stewart (18) 145 Independence Square, Wellsville, Ohio. Driving without lighted headlights.

08/12/96 (Monday) 10:35 p.m. Received a report that two suspicious young male subjects had been seen in the area of Ekey's Trailer Court, near Lot # 19, which is currently unoccupied. Citizen stated that

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these boys may have been inside the vacant trailer. The door to the trailer was found to be unlocked. Nothing appeared to be missing. Secured the doors.

08/13/96 (Tuesday) 10:25 p.m. Backed up Empire Police Dept. at a domestic dispute on Wheatley Street in Empire.

08/21/96 (Wednesday) 11:54 p.m. Cited George C. Riddle (26) 150 Beacon Drive, Weirton, W. Va. Speeding, 69 mph in a 50 mph zone.

08/22/96 (Thursday) 1:43 a.m. Assisted Saline Twp. Police Dept. and Ohio State Highway Patrol at a motor vehicle accident with injuries on State Route 213 at Cool Hollow Bend, Yellow Creek.

08/22/96 (Thursday) 11:47 p.m. Backed up a Jefferson County Sheriff's Deputy at a domestic dispute at 404 Knoxville Road.

08/25/96 (Sunday) 2:29 a.m. Cited William A. Sweitzer (46) 108 S. Jefferson St., Follansbee, W. Va. Speeding, 68 mph in a 50 mph zone.

08/25/96 (Sunday) 2:48 a.m. At the request of the Jefferson County Sheriff's Department, assisted Saline Township Police Department at a car/deer accident with injuries, at the State Rest Area.

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08/27/96 (Tuesday) 12:36 p.m. Cited Charles S. Heiney (36) 208 7th Street, Wellsville, Ohio. Parking Violation, yellow zone at corner of Second Avenue and Third Streets.

08/28/96 (Wednesday) 7:53 Received a complaint from a resident of Garren's Trailer Court in reference to a neighbor's loud stereo.

08/31/96 (Saturday) 2:07 a.m. Assisted a Jefferson County Sheriff's Deputy at a disturbance call on Reese Drive in Empire.

08/31/96 (Saturday) 10:32 p.m. Cited Dashrath G. Patel (40) 140-30 Beech Ave. 3U, Flushing, N.Y. Speeding, 70 mph in a 50 mph zone.

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EXHIBIT 13

Stratton Police Department
Monthly Report for October 1996

10/02/96 (Wednesday) 11:22 p.m. At the request of the Jefferson County Sheriff's Department, checked an alarm drop at 84 Lumber Co. in Empire.

10/05/96 (Saturday) 2:52 p.m. Assisted Jefferson County Sheriff's Deputies in a Fight/Domestic Dispute on Nessley Street, in Empire. One male subject charged with Domestic Violence and lodged in the County Jail.

10/08/96 (Tuesday) 7:28 p.m. Received a complaint in reference to an unsecured storage shed in Ekey's Trailer Court. Attempted to contact the owner by telephone. Trailer Court manager was notified by a resident in reference to this situation.

10/11/96 (Friday) 9:40 p.m. Found the lights on at the indoor pool. Checked the building and turned off the lights.

10/15/96 (Tuesday) 8:22 p.m. Cited Nancy A. Cardone (18) 750 Colonial Drive, Youngstown, Ohio. Speeding, 73 mph in a 50 mph zone.

10/15/96 (Tuesday) 9:25 p.m. Cited Mark A. Olszewski (34) 746 East 24th Street, Erie, Pa. Speeding, 74 mph in a 50 mph zone.

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10/17/96 (Thursday) 1:30 p.m. Received a report that a window had been broken on the north side of the Riverside Market.

10/17/96 (Thursday) 5:10 p.m. Received a complaint in reference to 2 subjects in a blue pickup truck soliciting. Subjects were located and advised to obtain a permit or they would be arrested in the future for soliciting without a permit.

10/18/96 (Friday) 10:00 a.m. Cited Paul W. Soupart (52) 102 Jessop Dr., St. Clairsville, Ohio. Speeding, 66 mph in a 50 mph zone.

10/18/96 (Friday) 6:35 p.m. Assisted a motorist with a disabled vehicle on 2nd Avenue, near the Municipal Building.

10/19/96 (Saturday) 2:01 a.m. At 800 Stratton Hgts. Road, cited Shane C. Carpenter (24) 501 Harrison Street, Empire, Ohio, Disorderly Conduct by reason of Public Intoxication.

10/19/96 (Saturday) 3:25 p.m. Received a complaint in reference to several intoxicated subjects creating a disturbance at the Stratton Tavern. Subjects were advised to leave.

10/19/96 (Saturday) 6:45 p.m. Received a complaint in reference to a parking problem in the area of the Post Office.

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10/19/96 (Saturday) 10:15 p.m. Assisted a motorist at the Riverside Market with keys locked in a vehicle.

10/20/96 (Sunday) 1:23 a.m. At the request of the Jefferson County Sheriff's Department, backed up Saline Township Police Department at a disturbance call at the City Grill in Irondale, Ohio.

10/24/96 (Thursday) 7:15 p.m. Received a complaint in reference to a dog biting a female subject who was walking on Second Avenue near Second Street. Minor injuries to the female subject. Dog Warden has been contacted, and a report is on file with this department.

10/25/96 (Friday) 10:23 p.m. Cited Jeffrey A. Russell (40) 50551 Stagecoach Road, East Liverpool, Ohio, Stop Sign Violation, 2nd Avenue at Stratton Hgts. Road.

10/27/96 (Sunday) 12:10 a.m. Cited Douglas R. McCourt (31) RD #1 County Road 58, Irondale, Ohio, Stop Sign Violation and D.U.I. BAC = .110, 2nd Avenue at 3rd Street.

10/29/96 (Tuesday) 11:55 p.m. Found the west entrance door to the Municipal Building open. Checked the building and secured the doors.

10/30/96 (Wednesday) 9:30 a.m. Cited Janet Cook (29) 1900 Nevada Street, Wellsville, Ohio, Speeding, 63 mph in a 50 mph zone.

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10/30/96 (Wednesday) 10:05 a.m. Cited James Houchin (28) 1325 Park Blvd. East, East Liverpool, Ohio, Speeding, 63 mph in a 50 mph zone.

10/31/96 (Thursday) 5:00 p.m. Halloween patrol, both cruisers out from 5:00 p.m. to 7:00 p.m.

10/31/96 (Thursday) 5:41 p.m. Cited John L. Porter (44) 503 Jefferson Street, Toronto, Ohio, Stop Sign Violation, 2nd Avenue at Stratton Hgts. Road.

10/31/96 (Thursday) 11:17 p.m. Cited Christopher S. Phelps (18) RD #1 Box 293, JFK Highway, Toronto, Ohio, Speeding, 80 mph in a 50 mph zone, Stop Sign Violation, 2nd Avenue at 5th Street, and Underage possession of an alcoholic beverage.

APPENDIX I(5) — DEFENDANTS' EXHIBITS 17-24 (CORRESPONDENCE BETWEEN MR. BRUZZESE AND MR. MOAKE)

EXHIBIT 17

LAW OFFICES
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TELEPHONE 282-5323
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AREA CODE 614

VIA: FAX: (914) 878-2060 4 PAGE(S)
VIA: ORDINARY MAIL

April 17, 1998

Watchtower
Bible and Tract Society of New York, Inc.
Legal Department
100 Watchtower Drive
Patterson, NY 12563-9204

ATTENTION: RICHARD D. MOAKE,
ASSOCIATE GENERAL COUNSEL

RE: CHAPTER 116, CODIFIED ORDINANCES OF THE VILLAGE OF STRATTON, OHIO AND YOUR LETTER OF APRIL 10, 1998

Appendix I(5)

Dear Mr. Moake:

Your April 10, 1998 letter, addressed to the Honorable John M. Abdalla, Mayor of the Village of Stratton, Ohio, has been referred to me for response.

With respect to the points raised in your letter, please be advised as follows:

1) *Definition of "Canvassers", "Solicitors", and other classes described in Section 116.01.* I believe that each of the terms included in the phrase, "canvassers, solicitors, peddlers, hawkers, itinerant merchants and transient vendors of merchandise and services," has a plain and ordinary meaning, which obviates the need for further specific definition in the Ordinance, itself.

However, if you have a suggested definition, please submit each definition to me, so that I can evaluate the question of whether the Ordinance should be amended to adopt a specific definition for each class identified in that section.

The Ordinance does not preclude "soliciting the attention of . . ." any person, and it does not prohibit, "explaining any . . . organization or cause,"; but rather, it prohibits the uninvited entry onto private property, for those purposes and other purposes.

The gravamen of the Ordinance is a prohibition against uninvited entry — i.e., entry in the nature of a trespass.

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2) *Speech About A "Cause".* The Ordinance does not prohibit (nor does it purport to prohibit) speech. It prohibits uninvited entry, and it regulates invited door-to-door canvassing, soliciting, peddling, hawking, etc.

3) *Invited Entry.* In your letter, you raise a third point, in which you seem to speculate on the Mayor's interpretation of the Ordinance. You say that, under the Mayor's interpretation, a Jehovah's Witness would be prohibited from going into a residence for the purpose of talking about the Bible, even if he has been invited, unless he obtains a $10.00 permit to "visit that one (1) residence." I have no reason to believe that the Mayor interprets the Ordinance that way, and I do not interpret the Ordinance that way. The Ordinance addresses invited visits by canvassers, solicitors, peddlers, hawkers, itinerant merchants and transient vendors of merchandise or services. It is obvious that the Ordinance has no application, at all, to an invited guest, who wishes to talk about any subject whatsoever.

If you believe that the Ordinance is not clearly limited to door-to-door canvassing, soliciting, etc., feel free to suggest any language which, in your opinion, makes that limitation clear. Then, I will give the Village Council an opportunity to consider the question of whether it will amend the Ordinance.

In the meantime, I see no evidence showing that the Ordinance has been applied to an invited guest

who accepts an invitation to visit a single residence, for any purpose whatsoever.

You correctly point out that the purpose of the Ordinance is to protect against a "risk of unwanted intrusion (and) annoyance" to Village residents. Again, if you have suggested language, which, in your opinion, better reflects that purpose, please submit it for the Village Council's consideration.

In the meantime, I know of no application of the Ordinance, where the Ordinance has been applied to a person who has accepted an invitation to another person's home.

4. *Emergency Clause*. I disagree with your view of the emergency clause for two (2) reasons. First, courts do not substitute their judgment for that of the legislative authority, with respect to the declaration of reasons in an emergency clause of a municipal ordinance. Second, I see a clear relationship between the stated purpose of the Ordinance and the activities of canvassers, solicitors, etc. who fail to identify themselves and engage in unwanted intrusions at times and in manners which cause annoyance, etc. to the ordinary citizen who is less able to identify and regulate the conduct of such persons. I do not presume to know or foresee the conduct of specific Jehovah's Witnesses in the future. I have no way of knowing whether each and every one of them goes peacefully from door to door talking about events and ideas (as you seem to

presume in the fourth issue raised in your letter). However, it is clear to me that the Ordinance does not target the Jehovah's Witnesses or any religious group, and it does not target speech. Its clear intent, purpose and application is in connection with unauthorized entry onto private property by door-to-door "canvassers, solicitors,", etc.

5) *9:00 a.m. to 5:00 p.m. Hours*. I do not agree with your fifth point. The Ordinance does not restrict the right of a resident and his invited guest to have contact and discussion during any time of the day or night. It affects only the "activity permitted under authority of this Chapter", — i.e. door-to-door canvassing, soliciting, etc. by those who register and obtain a permit.

6) *Leaving the Decision to the Resident*. Your sixth point was that the Ordinance determines the rights of each resident, with respect to the type of speech that may be conducted at his residence. I do not see any basis for that conclusion. Nowhere in the Ordinance do I see any restriction on any person's expression of any idea. What I see is a limitation upon entering private property.

I think the Village would be willing to work with you, in order to resolve the problem which you perceive. However, it does not seem productive to have people in town, appearing to be canvassing, soliciting, etc. door-to-door (and entering upon private property without the permission of the property owner), without the proper identification, registration and

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permit. That type of conduct seems to be motivated by the intent to cause confrontation, rather than solution. (Before such confrontation, a person may clearly appear to be canvassing and soliciting door-to-door, by virtue of uninvited entry [indeed, in some cases, trespass] in violation of the Ordinance, and, then, after the confrontation, they make the claim that they intended only to exercise their Constitutional Rights of Free Speech.)

The road to a solution is cooperation. Therefore, in the spirit of cooperation, I suggest:

a) Since the previous correspondence and this correspondence clearly explains the legislative intent of the Ordinance, I am inviting you to submit to me suggested language, modifications of language, and suggested amendments, which you see as appropriate to protecting Village inhabitants against uninvited entry/trespass onto their private property. I will consider those suggestions, and I will report back to you with respect to the Village's position on each suggestion.

b) In the meantime, if a member of your group intends to canvass, solicit, etc. in the Village, please let us know in advance, in order that we might avoid needless confrontation.

c) In the meantime, if a member of your group is invited to the home of a homeowner in the Village of Stratton, Ohio, that member may feel free to make that visit without fear of application of the Ordinance.

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I look forward to hearing from you at your earliest convenience.

Thank you.

Sincerely,

s/ Frank J. Bruzzese
FRANK J. BRUZZESE

FJB/tld

Appendix I(5)

EXHIBIT 18

WATCHTOWER
BIBLE AND TRACT SOCIETY OF NEW YORK, INC.
LEGAL DEPARTMENT
100 WATCHTOWER DRIVE
PATTERSON, NEW YORK 12563-9204
PHONE (914) 878-7000
FAX (914) 878-2060

April 27, 1998

Frank J. Bruzzese
Attorney at Law
P.O. Box 1506
Steubenville, OH 43952

Re: Chapter 116, Codified Ordinances of the Village of Stratton

Dear Mr. Bruzzese:

Thank you for your letter of April 17, 1998, responding to my April 10, 1998, letter to Mayor Abdalla. We appreciate both the thoughts that went into your letter and its cooperative tone.

From your letter, it seems that the Village will not apply sections 116.03 through 116.07 to the activities of Jehovah's Witnesses. Thus, potential conflict stems only from section 116.01 and the enforcement and penalty sections related to it.

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As stated in your letter, the gravamen of section 116.01 is a prohibition against uninvited entry. It is on this very point that we believe the ordinance is patently defective. In effect, the ordinance makes uninvited entry on a property a trespass without requiring the property resident to first indicate to potential entrants that entry is not permitted. Although I am sure that you have access to it, for your convenience, I enclose herewith a copy of the United States Supreme Court case entitled *Martin v. City of Struthers*. This case is still good law and has been cited affirmatively in many cases since 1943. Under *Martin*, ordinances like section 116.01 are unconstitutional. A property resident may preclude entry on his property by one or more classes of people, a fact which may be made known either verbally or by posted notice. However, a municipality may not by ordinance preclude uninvited entry on private property.

Because of the nature of their activity and the manner in which they conduct it, Jehovah's Witnesses do not fall within any of the categories of persons listed in section 116.01 of the ordinance. Thus, even if the ordinance were constitutional, it would not apply to the activities of Jehovah's Witnesses.

In many communities in this country, as a courtesy to local law enforcement personnel, Jehovah's Witnesses voluntarily give the municipality advance notice by telephone that they will be conducting door-to-door ministry on a particular date and in a particular area. As a way to resolve the current matter in Stratton, our local congregation would be willing to contact the Village Police Department by telephone before conducting door-to-door ministry in the

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Village. The caller would state the approximate time that such ministry would take place, the approximate number of people involved, and the general location where they would be. In this way, your police would be aware of their activity on the particular day in question. If the Village would agree to this approach, then the issue of whether or not section 116.01 is unconstitutional would not need to be determined.

To indicate our good faith in the matter, until we hear from you, we will advise our local congregation not to conduct door-to-door activity in the Village and to restrict ministry activity to visiting residences to which they have been invited.

We look forward to hearing from you at your earliest convenience.

Yours very truly,

s/ Richard Moake
Richard D. Moake
Associate General Counsel

RDM:eln

Enclosure

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EXHIBIT 19

WATCHTOWER
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June 8, 1998

Frank J. Bruzzese
Attorney at Law
P.O. Box 1506
Steubenville, OH 43952

Re: Chapter 116, Codified Ordinances of the Village of Stratton

Dear Mr. Bruzzese:

We have received no response to my letter of April 27, 1998. We had hoped your client would accept our proposed resolution. Since we have advised members of our local congregation to refrain from door-to-door activities until we hear from you, we are hopeful of a prompt response from your client.

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Please let us know your client's position in the near future.

Yours very truly,

s/ Richard Moake
Richard D. Moake
Associate General Counsel

RDM:eln

Appendix I(5)

EXHIBIT 20

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June 12, 1998

Watchtower
Bible and Tract Society of New York, Inc.
Legal Department
100 Watchtower Drive
Patterson, NY 12563-9204

ATTENTION: RICHARD D. MOAKE,
Associate General Counsel

RE: CHAPTER 116, CODIFIED ORDINANCES OF THE VILLAGE OF STRATTON

VIA: FAX, ONLY: (914) 878-2060 1 PAGE(S)

Dear Mr. Moake:

I received your letter of June 8, 1998, and your previous letter of April 27, 1998.

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Presently, I am in the process of researching the issues which you have raised, and drafting an Ordinance to be proposed to the Village Council.

As soon as I have completed the draft (which I should have finished in the next few days), I will send you a copy for your review and comment.

Thank you.

Sincerely,

s/ Frank J. Bruzzese
FRANK J. BRUZZESE

FJB/tld

Appendix I(5)

EXHIBIT 21

LAW OFFICES
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June 17, 1998

Watchtower
Bible and Tract Society of New York, Inc.
Legal Department
100 Watchtower Drive
Patterson, NY 12563-9204

VIA: FAX, ONLY: (914) 878-2060 7 PAGE(S)

ATTENTION: RICHARD D. MOAKE,
Associate General Counsel

RE: "NO SOLICITATION" ORDINANCE

Dear Mr. Moake:

I have continued doing legal research, in order to address each one of the Constitutional criticisms that you have raised, and, as a result of that research, I have drafted the attached

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proposed Ordinance, to amend the Village's Ordinance, in order to avoid an unnecessary litigation, while, at the same time, preserving reasonable regulations which are designed to prevent trespass, invasions of privacy, and solicitation by unidentified or illegitimate con artists.

Please review the attached draft, to see if it satisfactorily addresses each of your constitutional concerns.

The gist of the Ordinance is as follows:

1) Section 116.01 declares that soliciting *without a permit* is declared to be a nuisance and is prohibited.

2) Section 116.02 authorizes the police to prevent people from soliciting without a permit.

3) Section 116.03 requires door-to-door solicitors to register with the Office of the Mayor, in order to get a permit. On the "Solicitor's Registration Form", they must identify themselves, their organization, their address, the nature of their business, the *specific address* of each property at which they intend to solicit, the length of time for which a permit is requested, and other informatio...

4) Section 116.04 *automatically* entitles an applicant to a permit, if he properly fills out the "Solicitor's Registration Form," and he pays $10.00. (However, the permit entitles him to go only to the specific addresses which he listed in his "Solicitor's Registration Form.")

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Section 116.04 requires the solicitor to show his permit, when he is requested to do so by a police officer or any person who he solicits.

If a solicitor has a permit, he is *exempt from Section 116.01*. (That means that the mere fact that he is going door-to-door is not a nuisance, *unless he goes to an address which he failed to list on his form, or unless he goes to an address which is prohibited under Section 116.07.*)

5) Section 116.05 restricts soliciting between the hours of 9:00 a.m. and 5:00 p.m.

6) Section 116.06 authorizes the Mayor to deny a permit only for *specific* reasons. (The Mayor does not have any discretion which would enable invidious discrimination.)

It also authorizes the Mayor to revoke a permit that has previously been issued, if revocation is based on a specific ground.

7) Section 116.07 authorizes the *property owner/occupant* to prohibit solicitation, *even if the solicitor has a permit*.

It is the *property owner/occupant* who makes the choice. The property owner/occupant can file a "No Solicitation Registration Form" with the Office of the Mayor, and post a "No Solicitation" sign on his property. If he does so, *no one* (even someone

who holds a permit) may enter into his private property to solicit at his property, unless he specifically lists them as an *exception*.

The property owner can give the Mayor a list of people or organizations who *are allowed* to solicit. (For example, if he doesn't mind the Boy Scouts, Girl Scouts, a church organization (including the Jehovah's Witnesses), or other class of solicitor, he can, simply, list them as an exception. [See Section 116.07(b)(3).])

If the property owner does not list a person or organization as an exception, the property owner is telling the Village (on his "No Solicitation Registration Form") that the solicitor is a *trespasser*.

The *bottom line* is that the *Village* will not be making the choice as to which type of people or organizations may solicit. The Village will not discriminate at all. The Village will issue a permit to *everyone* who properly registers. *However,* the *private citizen* who owns property in the Village *will* make the choice, as to who is allowed to solicit on his property. In his "No Solicitation Registration Form" he can list any organization that he does not object to. *He* is telling the Village that *he* prohibits solicitation, by filing a "No Solicitation Registration Form" and by posting his property with a "No Solicitation" sign.

Then, anyone who engages in solicitation (with or without a permit) is violating the Ordinance, unless the property owner specifically listed that solicitor as an exception.

The Village will treat everyone alike, whereas the property owner gets to say who is allowed to come onto his property and who is not allowed. What do you think?

Thank you.

Sincerely,

s/ Frank J. Bruzzese
FRANK J. BRUZZESE

FJB/tld
Attachment

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ATTACHMENT

ORDINANCE NO. 1998-

ORDINANCE REGULATING UNINVITED PEDDLING AND SOLICITATION UPON PRIVATE PROPERTY IN THE VILLAGE OF STRATTON, OHIO, AND AMENDING ORDINANCE NO. 1996-__ OF THE ORDINANCES OF THE VILLAGE OF STRATTON, OHIO.

BE IT ORDAINED BY THE COUNCIL OF THE VILLAGE OF STRATTON, OHIO, that Ordinance No. 1996-__ of the Ordinances of the Village of Stratton, Ohio, which was passed on _____, 1996, is hereby amended, by replacing the language of said Ordinance No. 1996-__ in its entirety, with the following language:

BE IT ORDAINED BY THE COUNCIL OF THE VILLAGE OF STRATTON, OHIO, that, pursuant to authority granted in Section 715.61 of the Ohio Revised Code, and pursuant to Home Rule powers vested in the Village under Section 3, Article XVIII of the Ohio Constitution, the Codified Ordinances of the Village of Stratton, Ohio are hereby amended by the adoption of the following Chapter and Codified Ordinance Sections.

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CHAPTER 116

Peddlers and Solicitors

116.01 Uninvited peddling and soliciting declared a nuisance.

116.02 Enforcement.

116.03 Solicitor's Registration and Permit — Prohibition of unregistered solicitation, etc.

116.04 Issuance of permit; fee, content and display; effect.

116.05 Time limitations.

116.06 Denial or Revocation of permit.

116.07 Owner/occupant prohibition — "No Solicitation" Registration.

116.98 Penalty.

CROSS REFERENCES

Power to inspect food products — see Ohio R.C. 715.46
Power to regulate — see Ohio R.C. 715.61 et seq.
Home solicitation sales — see Ohio R.C. 1345.21 et seq.
Charitable solicitations — see Ohio R.C. Ch. 1716
Trespassing — see Ohio R.C. 2909.21
Frozen desserts — see Ohio R.C. 3717.51 et seq.
Littering — see Ohio R.C. 3767.20

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116.01 UNINVITED PEDDLING AND SOLICITING DECLARED A NUISANCE.

The practice of going in and upon private property and/or the private residences of Village residents in the Village by canvassers, solicitors, peddlers, hawkers, itinerant merchants or transient vendors of merchandise or services, not having been invited to do so by the owners or occupants of such private property or residences, and not having first obtained a permit pursuant to Section 116.03 of this Chapter, for the purpose of advertising, promoting, selling and/or explaining any product, service, organization or cause, or for the purpose of soliciting orders for the sale of goods, wares, merchandise or services, is hereby declared to be a nuisance and is prohibited.

116.02 ENFORCEMENT.

The Chief of Police (Village Marshall) and Village Police Officers are hereby required and authorized to abate any such nuisance as is described in Section 116.01.

116.03 REGISTRATION REQUIRED — PROHIBITION OF UNREGISTERED SOLICITATION, ETC.

(a) No canvasser, solicitor, peddler, hawker, itinerant merchant or transient vendor of merchandise or services who is described in Section 116.01 of this Chapter and who intends to go in or upon private property or a private residence in the Village for any of the purposes described in Section 116.01, shall go in or upon such private property or residence without first registering in the office of the Mayor and obtaining a permit to do so.

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(b) The registration required by subsection (a) hereof shall be made by filing a Solicitor's Registration Form, at the office of the Mayor, on a form furnished for such purpose. The Form shall be completed by the Registrant and it shall then contain the following information:

(1) The name and home address of the Registrant and Registrant's residence for five years next preceding the date of registration;

(2) A brief description of the nature and purpose of the business, promotion, solicitation, organization, cause, and/or the goods or services offered;

(3) The name and address of the employer or affiliated organization, with credentials from the employer or organization showing the exact relationship and authority of the Applicant;

(4) The length of time for which the privilege to canvass or solicit is desired;

(5) The specific address of each private residence at which the Registrant intends to engage in the conduct described in Section 116.01 of this Chapter; and,

(6) Such other information concerning the Registrant and its business or purpose as may be reasonably necessary to accurately describe the nature of the privilege desired.

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116.04 ISSUANCE OF PERMIT; FEE, CONTENT AND DISPLAY.

Each Registrant who complies with Section 116.03(b) shall be furnished a permit upon the payment by the Registrant of a fee of ten dollars ($10.00). The permit shall indicate that the applicant has registered as required by Section 116.03 of this Chapter. No permittee shall go in or upon any premises not listed on the Registrant's Solicitor's Registration Form.

Each person shall at all times, while exercising the privilege in the Village incident to such permit, carry upon his person his permit and the same shall be exhibited by such person whenever he is requested to do so by any police officer or by any person who is solicited.

Section 116.01 of this Chapter shall not apply and shall not be construed to apply to the holder of a valid permit issued pursuant to this Section.

116.05 TIME LIMITATIONS.

No activity permitted under authority of this chapter shall commence prior to 9:00 a.m. nor continue after 5:00 p.m. This time limitation shall be stated on the permit.

116.06 DENIAL OR REVOCATION OF PERMIT.

Permits described in Section 116.04 of this Chapter may be denied or revoked by the Mayor for any one or more of the following reasons:

Appendix I(5)

(a) Incomplete information provided by the Registrant in the Solicitor's Registration Form.

(b) Fraud or misrepresentation contained in the Solicitor's Registration Form.

(c) Fraud, misrepresentation or false statements made in the course of conducting the activity.

(d) Violation of any of the provisions of this chapter or of other Codified Ordinances or of any State or Federal Law.

(e) Conducting canvassing, soliciting or business in such a manner as to constitute a trespass upon private property.

(f) The permittee ceases to possess the qualifications required in this chapter for the original registration.

The revocation of a permit shall be in addition to any penalty provided in Section 116.99 of the Codified Ordinances of the Village of Stratton, Ohio, or any other penalty that may be imposed upon the permittee in accordance with law.

116.07 OWNER'S/OCCUPANT'S PROHIBITION AGAINST ENTRY.

(a) Notwithstanding the provisions of any other Section of this Chapter 116, any person, firm or corporation who is the owner or lawful occupant of private property within the

Appendix I(5)

territorial limits of the Village of Stratton, Ohio, may prohibit the practice of going in or upon the private property and/or the private residence of such owner or occupant, by uninvited canvassers, solicitors, peddlers, hawkers, itinerant merchants or transient vendors, by registering its property in accordance with Subdivision (b) of this Section and by posting upon each such registered property a sign which reads "No Solicitation" in a location which is reasonably visible to persons who intend to enter upon such property.

(b) The registration authorized by Subsection (a) hereof shall be made by filing a "No Solicitation Registration Form", at the office of the Mayor, on a form furnished for such purpose. The form shall be completed by the property owner or occupant and it shall then contain the following information:

(1) The name and address of the owner or occupant who wishes to prohibit uninvited canvassing, soliciting, peddling, hawking, merchandising and/or transient vending upon the private property of the owner or occupant;

(2) The specific address of each property at which the owner or occupant prohibits such conduct; and,

(3) A written and signed statement which reads:

"I, the undersigned, am the owner or lawful occupant of private property which is described in this No Solicitation Form, and I, hereby, give notice that I prohibit the practice of uninvited

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canvassers, solicitors, peddlers, hawkers, itinerant merchants or transient vendors coming upon my private property for the purpose of soliciting the attention of any occupant of that property or for the purpose of advertising, promoting, selling and/or explaining any product, service, organization or cause, or for the purpose of soliciting orders for the sales of any product.

I have posted a sign which reads, "No Solicitation", at the property, and the sign is located so that it is reasonably visible to persons who might be considering entering upon the property.

I consider any person entering upon the property for a prohibited purpose to be a trespasser.

The only exceptions to this prohibition are the persons and organizations listed below:

_____

_____

_____

_____

_____

_____

_____

_____"

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(c) No uninvited canvasser, solicitor, peddler, hawker, itinerant merchant or transient vendor of merchandise or services, shall go in or upon the private property of an owner or occupant of property who has registered and posted such property in accordance with Subsections (a) and (b) of this Section, for the purpose of advertising, promoting, selling or explaining any product, service, organization or cause, or for the purpose of soliciting orders for the sale of goods, wares, merchandise or services.

(d) The holder of a permit issued pursuant to Section 116.04 of this Chapter shall not be exempt from the prohibition contained in Subsection (c) of this Section. The holder of such permit shall not go in or upon any private property which has been registered and posted in accordance with Subsection (a) and (b) of this Section, for the purpose of advertising, promoting, selling or explaining any product, service, organization or cause, or for the purpose of soliciting orders for the sale of goods, wares, merchandise or services.

116.99 PENALTY.

(a) Violation of Section 116.01 is a misdemeanor of the fourth degree, the penalty for which is set forth in Section ___.99 of the Codified Ordinances of the Village of Stratton, Ohio.

(b) Violation of Section 116.03 is a misdemeanor of the fourth degree, the penalty for which is set forth in Section ___.99 of the Codified Ordinances of the Village of Stratton, Ohio.

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(c) Violation of Section 116.07(c) is a misdemeanor of the fourth degree, the penalty for which is set forth in Section ___.99 of the Codified Ordinances of the Village of Stratton, Ohio.

(d) Violation of Section 116.07(d) is a misdemeanor of the fourth degree, the penalty for which is set forth in Section ___.99 of the Codified Ordinances of the Village of Stratton, Ohio.

SECTION 2: This Ordinance is hereby declared to be an emergency Ordinance, necessary to the preservation of the public peace, safety and welfare of the citizens of the Village of Stratton, Ohio, and such emergency exists by reason of the fact that the failure to regulate the time and manner of the conduct which is regulated by the above Ordinance, and the failure to identify those engaged in such conduct, creates a risk of unwanted intrusion, annoyance and potential harm to Village residents who are less able, than the Village, to identify and regulate the conduct of persons, corporations, entities and organizations engaged in such conduct.

SECTION 3: This Ordinance shall be in full force and effect immediately upon its passage.

_____
MAYOR

ATTEST: _____
CLERK

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EXHIBIT 22

WATCHTOWER
BIBLE AND TRACT SOCIETY OF NEW YORK, INC.
LEGAL DEPARTMENT
100 WATCHTOWER DRIVE
PATTERSON, NEW YORK 12563-9204
PHONE (914) 878-7000
FAX (914) 878-2060

July 2, 1998

Frank J. Bruzzese
Attorney at Law
P.O. Box 1506
Steubenville, OH 43952

BY FAX AND REGULAR MAIL

Re: Chapter 116, Codified Ordinances of the Village of Stratton

Dear Mr. Bruzzese:

Thank you for your letter of June 17, 1998, about the proposed modifications to Chapter 116 of Stratton's ordinances. I was on assignment out of the country when it arrived and so was unable to respond until now. Please accept these comments simply as my observations, as I do not believe that we can negotiate the content of a municipal ordinance. If they are valid, perhaps you will consider them in your final draft.

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At the outset, it seems to me that the proposed revised ordinance does not apply to the door-to-door ministry of Jehovah's Witnesses. As we have previously written, Jehovah's Witnesses call at residences to converse with the occupant about some topic of interest and about the Bible. In their door-to-door ministry, they do not canvass, solicit, peddle, hawk, or sell anything, and they do not make such calls for the purpose of advertising, promoting, selling, and/or explaining any product, service, organization, or cause. Thus, if passed, we would consider the ordinance as not applying to Jehovah's Witnesses, whether or not it otherwise would pass review on a constitutional basis.

Your deletion from section 116.01 is good for free speech in Stratton. Adding the reference to the permit in that section is logical from a drafting standpoint.

Some practical problems are inherent in section 116.03(b)(5). Unless a complete listing of all residence addresses in the village is maintained at the Mayor's office, people desiring permits will be forced to drive throughout the village to obtain addresses. For those desiring to engage in the regulated conduct at many or all residences in the village, this will present a logistical problem. It will also add to vehicular traffic on village streets. Will the statement 'all residences in the village' be deemed sufficient? It is not uncommon for residences to lack identifying addresses that are visible from the street. How should those be listed in order to comply with the ordinance? From a legal standpoint, I fail to see why it is necessary for an applicant to list each specific residence that he intends to visit (or why the permit issued under section 116.04 should be limited to such addresses).

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The proposed ordinance seems to indicate that the permit will be valid for the length of time stated on the registration form under section 116.03(b)(4). What if the registrant states that the length of time desired is 'permanent' or 'continuously' or words to that effect? Will a permanent permit be issued?

The federal courts have ruled that it is not legal to charge a fee for the 'privilege' of exercising first amendment rights (see, e.g., *Murdock v. Commonwealth of Pennsylvania*, 319 U.S. 105, 63 S.Ct. 870 (1943)). The registration fee under section 116.04 is thus inappropriate.

No federal appellate court case has upheld an ordinance limiting noncommercial first amendment activity to between 9:00 a.m. and 5:00 p.m. Although the United States Supreme Court has not ruled on the issue, federal courts of appeals have ruled against municipal ordinances that prohibit such activity after 5:00 p.m.

The addition of section 116.07 allows individual residents to give notice that they do not want uninvited solicitations. With this addition, it seems that the village does not need to otherwise regulate noncommercial speech activity. The ordinance could merely state that all persons described in section 116.01 must comply with section 116.07. If the village wants to further regulate commercial (including fund-raising) speech activity by requiring registration, payment of a fee, and a permit, it could do so. Such would be unnecessary for activity involving noncommercial speech. In other words, since residents would have a formal way of notifying unwanted visitors, there is no need to require registration by those conducting only noncommercial speech activity.

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Even though we believe that neither the existing ordinance nor the proposed revised ordinance applies to the activities of Jehovah's Witnesses, the local congregation would be willing to contact the Police Department in advance of going into the village, as was more fully discussed in my April 27, 1998, letter. If that is agreeable, then your client's concerns should be resolved without regard to the wording of the ordinance. Of course, Jehovah's Witnesses would abide by any posted sign clearly indicating that their visit is not welcome.

Yours very truly,

s/ Richard Moake
Richard D. Moake
Associate General Counsel

RDM:eln

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EXHIBIT 23

WATCHTOWER
BIBLE AND TRACT SOCIETY OF NEW YORK, INC.
LEGAL DEPARTMENT
100 WATCHTOWER DRIVE
PATTERSON, NEW YORK 12563-9204
PHONE (914) 878-7000
FAX (914) 878-2060

August 21, 1998

Frank J. Bruzzese
Attorney at Law
P.O. Box 1506
Steubenville, OH 43952

Re: Chapter 116, Codified Ordinances of the Village of Stratton

Dear Mr. Bruzzese:

We have received no response to my letter of July 2, 1998. Please let us know the status of the matter and whether our proposal for a resolution is acceptable.

Yours very truly,

s/ Richard Moake
Richard D. Moake
Associate General Counsel

RDM:eln

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EXHIBIT 24

LAW OFFICES
FREIFIELD, BRUZZESE, WEHR, MORELAND,
STRAUS & SPAHN
300 SINCLAIR BUILDING
P.O. BOX 1506
STEUBENVILLE, OHIO 43952
TELEPHONE 282-5323
FAX NO 282-5328
AREA CODE 740

September 9, 1998

Watchtower
Bible and Tract Society of New York, Inc.
Legal Department
100 Watchtower Drive
Patterson, NY 12563-9204
ATTENTION: RICHARD D. MOAKE, Associate General Counsel (Legal Department)

RE: CHAPTER 116, CODIFIED ORDINANCES OF THE VILLAGE OF STRATTON

Dear Mr. Moake:

After I received your July 2, 1998 letter containing comments on the draft modifications to Chapter 116, I incorporated some of your comments in my final draft, and presented the draft to Council, which passed Ordinance No. 1998-5, which amended Ordinance No. 1996-06.

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A copy of the Ordinance is enclosed for your reference.

In the final draft, I maintained the deletion from Section 116.01, which you characterized as "good for free speech." I added the reference to the permit in that section, as you thought would be "logical from a drafting standpoint."

With reference to your comment regarding "practical problems . . . inherent in Section 116.03(b)(5)," I concluded that a complete listing of all residence addresses in the Village would be available in the local directories and other records maintained at the Mayor's office. I further concluded that Stratton is such a small town that people could, in fact, identify addresses without practical difficulty. (Remember, it is only the address to which you intend to solicit that must be listed on the application, therefore, it is not logical to take the position that physically locating that address is a practical or unreasonable burden.)

With reference to the length of time, during which a permit will remain valid, a permit will be issued to any person who satisfies the prerequisites, provided by the Ordinance. There is no arbitrary cutoff, with reference to length of time. In answer to your question, if someone writes "permanent" or "continuously" or words to that effect, I conclude that the permit will remain in effect so long as that person continues to engage in the activity described in his application. Since the final draft deleted any charge of a fee for the permit, his applying for a new permit at a later time, as opposed to continuing his conduct under the same permit, will not raise a practical problem or legal problem for the permit holder or the Village officials, so long as the conduct continues unchanged. (Only a later failure to comply would be ground for revocation.)

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With reference to your comment in connection with Federal Court decisions which prohibit a fee for the "privilege" of exercising First Amendment Rights, I did not agree that the Registration Fee contained in the previous draft (previous draft section 116.04) was constitutionally infirm, however, the fee has been deleted. Therefore, anyone who complies with the Ordinance, will be entitled to a permit, free of charge. In fact, the final draft of the Ordinance does not leave discretion in the Mayor. Once the applicant complies with the prerequisites to a permit (all of which are objectively identifiable), the Mayor has no choice but to issue the permit, and issue it free of charge.

The Ordinance maintains the 9:00 a.m.-5:00 p.m. reference. This is not a limit on First Amendment activity. Remember, the conduct which is addressed is the *uninvited entry* onto private property.

With reference to your comment on Section 116.07 (which allows individual residents to give notice that they do not permit uninvited entries), please note that the Ordinance makes no distinction between commercial versus noncommercial activity. It gives the private property owner/occupier a way to communicate his own choice and document on a record that will be available for inspection by the person who applies for a permit. The "No Solicitation Registration Forms" will be available at the office of the Mayor, so that the person who applies for a permit may see the property owners/occupiers prohibition, if any. This is a very fair way of notifying Village officials as to who is an unwanted visitor, and this is a very fair and practical way of notifying unwanted visitors, themselves.

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It seems to me that the solicitor's duty to register and get a permit is a reasonable and constitutional requirement, which, among other things, identifies the people who go door-to-door and the nature and legitimacy of their purpose and organization, if any. It does not prohibit or limit any otherwise legal conduct; it merely requires registering in accordance with Section 116.03 and carrying/exhibiting the permit in accordance with Section 116.04.

It is the owner/occupant who has the power to prohibit entry under this Ordinance, once the applicant has obtained his permit.

In my opinion, the final draft protects all constitutional freedoms of any person who wants to solicit, etc., and, at the same time, protects the constitutional property rights of the private citizens, while not leaving overly broad discretion in the Village officials.

I disagree with your opinion in connection with the applicability of the Ordinance. It applies to all organizations and persons equally. There is no distinction between commercial and noncommercial. There is no distinction or exception for church organizations or religious groups. Therefore, in my opinion, each individual who intends to engage in the conduct described in the Ordinance should register as required and should carry and exhibit the permit as required by the Ordinance. Such people should not contact the Police Department (as suggested in your July 2, 1998 letter), but rather, they should come to the Mayor's office.

When the applicant appears at the Mayor's office, he/she will be able to see the registration forms of private

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property owners, who prohibit entry, etc. In addition (and as suggested in your July 2, 1998 letter), we incorporated the idea of a sign posted on each of the private addresses where such entry is prohibited by the property owner. (Remember, Section 116.07 requires the private property owner/occupier to do *two (2) things* — (1) post a "No Solicitation" sign on the property in a place visible to people who intend to enter, and (2) file the "No Solicitation Registration Form" at the Mayor's office. Thus, canvassers, solicitors, etc. have two (2) separate ways to identity the properties of citizens who have exercised their right to prohibit unauthorized entry. They can see the list (and the actual registration forms) at the Mayor's office, and they can see the "No Solicitation" signs as they go from door-to-door.

Thank you.

Sincerely,

s/ Frank J. Bruzzese
FRANK J. BRUZZESE

FJB/tld
Enclosure

APPENDIX I(6) — DEFENDANTS' EXHIBIT 34a-u (COMPLETED "NO SOLICITATION" FORMS)

EXHIBIT 34a

NO SOLICITATION REGISTRATION FORM

TO: MAYOR OF THE VILLAGE OF STRATTON, OHIO

I, the undersigned, being the lawful owner or occupant of private property in the Village of Stratton, Ohio, hereby exercise my right to prohibit the practice of going in or upon the below-listed private property by uninvited canvassers, solicitors, peddlers, hawkers, merchants and vendors.

I am registering the following properties in accordance with Section 116.07 of the Codified Ordinances of the Village of Stratton, Ohio:

[List properties where the practice *is prohibited*]

1. 128 3rd Ave.

My name and address (where I reside):

Name: Walter & Thelma Parsons
Street Address: 128 3rd Ave.
P.O. Box: 23
City: Stratton State: OH Zip: 43961

I, the undersigned, am the owner or lawful occupant of private property which is described in this No Solicitation Form, and I, hereby, give notice that I prohibit the practice

of uninvited canvassers, solicitors, peddlers, hawkers, itinerant merchants or transient vendors coming upon my private property for the purpose of soliciting the attention of any occupant of that property or for the purpose of advertising, promoting, selling and/or explaining any product, service, organization or cause, or for the purpose of soliciting orders for the sales of any product.

I have posted a sign which reads, "No Solicitation", at the property, and the sign is located so that it is reasonably visible to persons who might be considering entering upon the property.

I consider any person entering upon the property for a prohibited purpose to be a trespasser.

The only exceptions to this prohibition are the persons and organizations listed below:

Schwans Delivery

s/ Thelma L. Parsons
OWNER/OCCUPANT

Date: 9-10-98

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	ALLOWED (check)
1. Scouting Organizations	☑
2. Camp Fire Girls	☑
3. Childrens Sports Organizations	☑
4. Childrens Solicitation for Supporting School Activities	☑
5. Volunteer Fire Dept.	☑
6. Jehovah Witnesses	☐
7. Political Candidates	☑
8. Beauty Products Sales People	☐
9. Watkins Sales	☐
10. Christmas Carolers	☑
11. Parcel Delivery	☑
12. Little League	☑
13. Trick or Treaters during Halloween Season	☑
14. Police	☑
15. Campaigners	☑
16. Newspaper Carriers	☑
17. Persons Affiliated with _____ Church ____	☐
18. Food Salesman	☐
19. Salespersons	☐

You may choose from this list and add more to the second page of the form if necessary.

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EXHIBIT 34b

NO SOLICITATION REGISTRATION FORM

TO: MAYOR OF THE VILLAGE OF STRATTON, OHIO

I, the undersigned, being the lawful owner or occupant of private property in the Village of Stratton, Ohio, hereby exercise my right to prohibit the practice of going in or upon the below-listed private property by uninvited canvassers, solicitors, peddlers, hawkers, merchants and vendors.

I am registering the following properties in accordance with Section 116.07 of the Codified Ordinances of the Village of Stratton, Ohio:

[List properties where the practice *is prohibited*]

1. 507 5th Street

My name and address (where I reside):

Name: James & Dorothy Rudder
Street Address: 507 5th Street
P.O. Box: 48
City: Stratton State: OH Zip: 43961

I, the undersigned, am the owner or lawful occupant of private property which is described in this No Solicitation Form, and I, hereby, give notice that I prohibit the practice of uninvited canvassers, solicitors, peddlers, hawkers,

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itinerant merchants or transient vendors coming upon my private property for the purpose of soliciting the attention of any occupant of that property or for the purpose of advertising, promoting, selling and/or explaining any product, service, organization or cause, or for the purpose of soliciting orders for the sales of any product.

I have posted a sign which reads, "No Solicitation", at the property, and the sign is located so that it is reasonably visible to persons who might be considering entering upon the property.

I consider any person entering upon the property for a prohibited purpose to be a trespasser.

The only exceptions to this prohibition are the persons and organizations listed below:

[left blank]

s/ James Rudder
OWNER/OCCUPANT

Date: Sept. 14, 1998

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ALLOWED (check)

1. Scouting Organizations _____ ☒
2. Camp Fire Girls _____ ☒
3. Childrens Sports Organizations _____ ☒
4. Childrens Solicitation for Supporting School Activities _____ ☒
5. Volunteer Fire Dept. _____ ☒
6. Jehovah Witnesses _____ ☐
7. Political Candidates _____ ☒
8. Beauty Products Sales People _____ ☐
9. Watkins Sales _____ ☐
10. Christmas Carolers _____ ☒
11. Parcel Delivery _____ ☒
12. Little League _____ ☒
13. Trick or Treaters during Halloween Season _____ ☒
14. Police _____ ☒
15. Campaigners _____ ☒
16. Newspaper Carriers _____ ☒
17. Persons Affiliated with _____ Church _____ ____ ☐
18. Food Salesman _____ ☐
19. Salespersons _____ ☐

You may choose from this list and add more to the second page of the form if necessary.

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EXHIBIT 34c

NO SOLICITATION REGISTRATION FORM

TO: MAYOR OF THE VILLAGE OF STRATTON, OHIO

I, the undersigned, being the lawful owner or occupant of private property in the Village of Stratton, Ohio, hereby exercise my right to prohibit the practice of going in or upon the below-listed private property by uninvited canvassers, solicitors, peddlers, hawkers, merchants and vendors.

I am registering the following properties in accordance with Section 116.07 of the Codified Ordinances of the Village of Stratton, Ohio:

[List properties where the practice *is prohibited*]

1. 121 2nd Ave., Stratton, Ohio

My name and address (where I reside):

Name: Kenneth Fowler
Street Address: 121 2nd Ave.
P.O. Box: 93
City: Stratton State: Ohio Zip: 43961

I, the undersigned, am the owner or lawful occupant of private property which is described in this No Solicitation Form, and I, hereby, give notice that I prohibit the practice of uninvited canvassers, solicitors, peddlers, hawkers,

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itinerant merchants or transient vendors coming upon my private property for the purpose of soliciting the attention of any occupant of that property or for the purpose of advertising, promoting, selling and/or explaining any product, service, organization or cause, or for the purpose of soliciting orders for the sales of any product.

I have posted a sign which reads, "No Solicitation", at the property, and the sign is located so that it is reasonably visible to persons who might be considering entering upon the property.

I consider any person entering upon the property for a prohibited purpose to be a trespasser.

The only exceptions to this prohibition are the persons and organizations listed below:

[left blank]

s/ Kenneth Fowler
OWNER/OCCUPANT

Date: 9-14-98

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ALLOWED (check)

1. Scouting Organizations _____ ☑
2. Camp Fire Girls _____ ☑
3. Childrens Sports Organizations _____ ☐
4. Childrens Solicitation for Supporting School Activities _____ ☑
5. Volunteer Fire Dept. _____ ☑
6. Jehovah Witnesses _____ ☐
7. Political Candidates _____ ☐
8. Beauty Products Sales People _____ ☐
9. Watkins Sales _____ ☐
10. Christmas Carolers _____ ☑
11. Parcel Delivery _____ ☑
12. Little League _____ ☐
13. Trick or Treaters during Halloween Season _____ ☑
14. Police _____ ☑
15. Campaigners _____ ☐
16. Newspaper Carriers _____ ☑
17. Persons Affiliated with _____ Church _____ ____ ☐
18. Food Salesman _____ ____ ☐
19. Salespersons _____ ☐

You may choose from this list and add more to the second page of the form if necessary.

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EXHIBIT 34d

NO SOLICITATION REGISTRATION FORM

TO: MAYOR OF THE VILLAGE OF STRATTON, OHIO

I, the undersigned, being the lawful owner or occupant of private property in the Village of Stratton, Ohio, hereby exercise my right to prohibit the practice of going in or upon the below-listed private property by uninvited canvassers, soliciters, peddlers, hawkers, merchants and vendors.

I am registering the following properties in accordance with Section 116.07 of the Codified Ordinances of the Village of Stratton, Ohio:

[List properties where the practice *is prohibited*]

1. 94-Third Ave.

My name and address (where I reside):

Name: Richard & Kelly Meadows
Street Address: 94-Third Ave.
P.O. Box: PO Box 195
City: Stratton State: OH Zip: 43961

I, the undersigned, am the owner or lawful occupant of private property which is described in this No Solicitation Form, and I, hereby, give notice that I prohibit the practice of uninvited canvassers, solicitors, peddlers, hawkers,

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itinerant merchants or transient vendors coming upon my private property for the purpose of soliciting the attention of any occupant of that property or for the purpose of advertising, promoting, selling and/or explaining any product, service, organization or cause, or for the purpose of soliciting orders for the sales of any product.

I have posted a sign which reads, "No Solicitation", at the property, and the sign is located so that it is reasonably visible to persons who might be considering entering upon the property.

I consider any person entering upon the property for a prohibited purpose to be a trespasser.

The only exceptions to this prohibition are the persons and organizations listed below:

[left blank]

s/ Richard Meadows Kelly Meadows
OWNER/OCCUPANT

Date: 9-14-98

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ALLOWED (check)

1. Scouting Organizations _____ ☑
2. Camp Fire Girls _____ ☐
3. Childrens Sports Organizations _____ ☑
4. Childrens Solicitation for Supporting School Activities _____ ☑
5. Volunteer Fire Dept. _____ ☑
6. Jehovah Witnesses _____ ☐
7. Political Candidates _____ ☑
8. Beauty Products Sales People _____ ☐
9. Watkins Sales _____ ☐
10. Christmas Carolers _____ ☑
11. Parcel Delivery _____ ☑
12. Little League _____ ☑
13. Trick or Treaters during Halloween Season _____ ☑
14. Police _____ ☑
15. Campaigners _____ ☐
16. Newspaper Carriers _____ ☑
17. Persons Affiliated with _____ Church _____ ____ ☐
18. Food Salesman _____ ☐
19. Salespersons _____ ☐

You may choose from this list and add more to the second page of the form if necessary.

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EXHIBIT 34e

NO SOLICITATION REGISTRATION FORM

TO: MAYOR OF THE VILLAGE OF STRATTON, OHIO

I, the undersigned, being the lawful owner or occupant of private property in the Village of Stratton, Ohio, hereby exercise my right to prohibit the practice of going in or upon the below-listed private property by uninvited canvassers, solicitors, peddlers, hawkers, merchants and vendors.

I am registering the following properties in accordance with Section 116.07 of the Codified Ordinances of the Village of Stratton, Ohio:

[List properties where the practice *is prohibited*]

1. 811 Stratton Heights

My name and address (where I reside):

Name: Stella, Andy & Jerry Harris
Street Address: 811 Stratton
P.O. Box: 5
City: Stratton State: OH Zip: 43961

I, the undersigned, am the owner or lawful occupant of private property which is described in this No Solicitation Form, and I, hereby, give notice that I prohibit the practice of uninvited canvassers, solicitors, peddlers, hawkers,

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itinerant merchants or transient vendors coming upon my private property for the purpose of soliciting the attention of any occupant of that property or for the purpose of advertising, promoting, selling and/or explaining any product, service, organization or cause, or for the purpose of soliciting orders for the sales of any product.

I have posted a sign which reads, "No Solicitation", at the property, and the sign is located so that it is reasonably visible to persons who might be considering entering upon the property.

I consider any person entering upon the property for a prohibited purpose to be a trespasser.

The only exceptions to this prohibition are the persons and organizations listed below:

[left blank]

s/ Charles and Jerry Harris
OWNER/OCCUPANT

Date: 9-14-98

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ALLOWED (check)

1. Scouting Organizations _____ ☒
2. Camp Fire Girls _____ ☒
3. Childrens Sports Organizations _____ ☐
4. Childrens Solicitation for Supporting School Activities _____ ☒
5. Volunteer Fire Dept. _____ ☒
6. Jehovah Witnesses _____ ☐
7. Political Candidates _____ ☐
8. Beauty Products Sales People _____ ☐
9. Watkins Sales _____ ☐
10. Christmas Carolers _____ ☒
11. Parcel Delivery _____ ☒
12. Little League _____ ☒
13. Trick or Treaters during Halloween Season _____ ☒
14. Police _____ ☒
15. Campaigners _____ _____ ☐
16. Newspaper Carriers _____ ☐
17. Persons Affiliated with any Church except Jehovah Witnesses _____ ☒
18. Food Salesman _____ ☒
19. Salespersons _____ ☐

You may choose from this list and add more to the second page of the form if necessary.

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EXHIBIT 34f

NO SOLICITATION REGISTRATION FORM

TO: MAYOR OF THE VILLAGE OF STRATTON, OHIO

I, the undersigned, being the lawful owner or occupant of private property in the Village of Stratton, Ohio, hereby exercise my right to prohibit the practice of going in or upon the below-listed private property by uninvited canvassers, solicitors, peddlers, hawkers, merchants and vendors.

I am registering the following properties in accordance with Section 116.07 of the Codified Ordinances of the Village of Stratton, Ohio:

[List properties where the practice *is prohibited*]

1. 402-4th St.

My name and address (where I reside):

Name: Lola Kakascik
Street Address: 402-4th St.
P.O. Box: Box 110
City: Stratton State: OH Zip: 43961

I, the undersigned, am the owner or lawful occupant of private property which is described in this No Solicitation Form, and I, hereby, give notice that I prohibit the practice of uninvited canvassers, solicitors, peddlers, hawkers,

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itinerant merchants or transient vendors coming upon my private property for the purpose of soliciting the attention of any occupant of that property or for the purpose of advertising, promoting, selling and/or explaining any product, service, organization or cause, or for the purpose of soliciting orders for the sales of any product.

I have posted a sign which reads, "No Solicitation", at the property, and the sign is located so that it is reasonably visible to persons who might be considering entering upon the property.

I consider any person entering upon the property for a prohibited purpose to be a trespasser.

The only exceptions to this prohibition are the persons and organizations listed below:

[left blank]

s/ Lola Kakascik
OWNER/OCCUPANT

Date: 9-11-98

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ALLOWED (check)

1. Scouting Organizations _____ ☑
2. Camp Fire Girls _____ ☑
3. Childrens Sports Organizations _____ ☑
4. Childrens Solicitation for Supporting School Activities _____ ☑
5. Volunteer Fire Dept. _____ ☑
6. Jehovah Witnesses _____ ☐
7. Political Candidates _____ ☐
8. Beauty Products Sales People _____ ☐
9. Watkins Sales _____ ☐
10. Christmas Carolers _____ ☑
11. Parcel Delivery _____ ☑
12. Little League _____ ☑
13. Trick or Treaters during Halloween Season _____ ☐
14. Police _____ ☐
15. Campaigners _____ ☐
16. Newspaper Carriers _____ ☐
17. Persons Affiliated with _____ Church _____ ____ ☐
18. Food Salesman _____ ☐
19. Salespersons _____ ☐

You may choose from this list and add more to the second page of the form if necessary.

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EXHIBIT 34g

NO SOLICITATION REGISTRATION FORM

TO: MAYOR OF THE VILLAGE OF STRATTON, OHIO

I, the undersigned, being the lawful owner or occupant of private property in the Village of Stratton, Ohio, hereby exercise my right to prohibit the practice of going in or upon the below-listed private property by uninvited canvassers, solicitors, peddlers, hawkers, merchants and vendors.

I am registering the following properties in accordance with Section 116.07 of the Codified Ordinances of the Village of Stratton, Ohio:

[List properties where the practice *is prohibited*]

1. 600 6th St.

My name and address (where I reside):

Name: Paul & Connie Rohall
Street Address: 600 6th St.
P.O. Box: 87
City: Stratton State: OH Zip: 43961

I, the undersigned, am the owner or lawful occupant of private property which is described in this No Solicitation Form, and I, hereby, give notice that I prohibit the practice of uninvited canvassers, solicitors, peddlers, hawkers,

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itinerant merchants or transient vendors coming upon my private property for the purpose of soliciting the attention of any occupant of that property or for the purpose of advertising, promoting, selling and/or explaining any product, service, organization or cause, or for the purpose of soliciting orders for the sales of any product.

I have posted a sign which reads, "No Solicitation", at the property, and the sign is located so that it is reasonably visible to persons who might be considering entering upon the property.

I consider any person entering upon the property for a prohibited purpose to be a trespasser.

The only exceptions to this prohibition are the persons and organizations listed below:

Schwan's Delivery

s/ Connie Rohall
OWNER/OCCUPANT

Date: 9-11-98

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ALLOWED (check)

1. Scouting Organizations _____ ☒
2. Camp Fire Girls _____ ☒
3. Childrens Sports Organizations _____ ☒
4. Childrens Solicitation for Supporting School Activities _____ ☒
5. Volunteer Fire Dept. _____ ☒
6. Jehovah Witnesses _____ ☐
7. Political Candidates _____ ☒
8. Beauty Products Sales People _____ ☐
9. [illegible]s Sales _____ ☐
10. Christmas Carolers _____ ☒
11. Parcel Delivery _____ ☒
12. Little League _____ ☒
13. Trick or Treaters during Halloween Season _____ ☒
14. Police _____ ☐
15. Campaigners _____ ☒
16. Newspaper Carriers _____ ☒
17. Persons Affiliated with _____ Church _____ ____ ☐
18. Food Salesman _____ ☐
19. Salespersons _____ ☐

You may choose from this list and add more to the second page of the form if necessary.

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EXHIBIT 34h

NO SOLICITATION REGISTRATION FORM

TO: MAYOR OF THE VILLAGE OF STRATTON, OHIO

I, the undersigned, being the lawful owner or occupant of private property in the Village of Stratton, Ohio, hereby exercise my right to prohibit the practice of going in or upon the below-listed private property by uninvited canvassers, solicitors, peddlers, hawkers, merchants and vendors.

I am registering the following properties in accordance with Section 116.07 of the Codified Ordinances of the Village of Stratton, Ohio:

[List properties where the practice *is prohibited*]

1. 94 First Avenue

My name and address (where I reside):

Name: Michael R. Wilson
Street Address: 94 First Avenue
P.O. Box: 231
City: Stratton State: Ohio Zip: 43961

I, the undersigned, am the owner or lawful occupant of private property which is described in this No Solicitation Form, and I, hereby, give notice that I prohibit the practice of uninvited canvassers, solicitors, peddlers, hawkers,

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itinerant merchants or transient vendors coming upon my private property for the purpose of soliciting the attention of any occupant of that property or for the purpose of advertising, promoting, selling and/or explaining any product, service, organization or cause, or for the purpose of soliciting orders for the sales of any product.

I have posted a sign which reads, "No Solicitation", at the property, and the sign is located so that it is reasonably visible to persons who might be considering entering upon the property.

I consider any person entering upon the property for a prohibited purpose to be a trespasser.

The only exceptions to this prohibition are the persons and organizations listed below:

None

s/ Michael R. Wilson
OWNER/OCCUPANT

Date: 9-11-98

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ALLOWED (check)

1. Scouting Organizations _____ ☐
2. Camp Fire Girls _____ ☐
3. Childrens Sports Organizations _____ ☐
4. Childrens Solicitation for Supporting School Activities _____ ☐
5. Volunteer Fire Dept. _____ ☐
6. Jehovah Witnesses _____ ☐
7. Political Candidates _____ ☐
8. Beauty Products Sales People _____ ☐
9. Watkins Sales _____ ☐
10. Christmas Carolers _____ ☐
11. Parcel Delivery _____ ☐
12. Little League _____ ☐
13. Trick or Treaters during Halloween Season _____ ☐
14. Police _____ ☐
15. Campaigners _____ ☐
16. Newspaper Carriers _____ ☐
17. Persons Affiliated with _____ Church _____ ____ ☐
18. Food Salesman _____ ☐
19. Salespersons _____ ☐

You may choose from this list and add more to the second page of the form if necessary.

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EXHIBIT 34i

NO SOLICITATION REGISTRATION FORM

TO: MAYOR OF THE VILLAGE OF STRATTON, OHIO

I, the undersigned, being the lawful owner or occupant of private property in the Village of Stratton, Ohio, hereby exercise my right to prohibit the practice of going in or upon the below-listed private property by uninvited canvassers, solicitors, peddlers, hawkers, merchants and vendors.

I am registering the following properties in accordance with Section 116.07 of the Codified Ordinances of the Village of Stratton, Ohio:

[List properties where the practice *is prohibited*]

1. 124 3rd Ave.

My name and address (where I reside):

Name: William Householder
Street Address: 124 3rd Ave.
P.O. Box: Box 6
City: Stratton State: OH Zip: 43961

I, the undersigned, am the owner or lawful occupant of private property which is described in this No Solicitation Form, and I, hereby, give notice that I prohibit the practice of uninvited canvassers, solicitors, peddlers, hawkers,

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itinerant merchants or transient vendors coming upon my private property for the purpose of soliciting the attention of any occupant of that property or for the purpose of advertising, promoting, selling and/or explaining any product, service, organization or cause, or for the purpose of soliciting orders for the sales of any product.

I have posted a sign which reads, "No Solicitation", at the property, and the sign is located so that it is reasonably visible to persons who might be considering entering upon the property.

I consider any person entering upon the property for a prohibited purpose to be a trespasser.

The only exceptions to this prohibition are the persons and organizations listed below:

[left blank]

s/ William Householder
OWNER/OCCUPANT

Date: 9-16-98

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ALLOWED (check)

1. Scouting Organizations _____ ☐
2. Camp Fire Girls _____ ☐
3. Childrens Sports Organizations _____ ☐
4. Childrens Solicitation for Supporting School Activities _____ ☐
5. Volunteer Fire Dept. _____ ☐
6. Jehovah Witnesses _____ ☐
7. Political Candidates _____ ☐
8. Beauty Products Sales People _____ ☐
9. Watkins Sales _____ ☐
10. Christmas Carolers _____ ☐
11. Parcel Delivery _____ ☐
12. Little League _____ ☐
13. Trick or Treaters during Halloween Season _____ ☑
14. Police _____ ☐
15. Campaigners _____ ☐
16. Newspaper Carriers _____ ☐
17. Persons Affiliated with _____ Church _____ ____ ☐
18. Food Salesman _____ ☐
19. Salespersons _____ ☐

You may choose from this list and add more to the second page of the form if necessary.

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EXHIBIT 34j

NO SOLICITATION REGISTRATION FORM

TO: MAYOR OF THE VILLAGE OF STRATTON, OHIO

I, the undersigned, being the lawful owner or occupant of private property in the Village of Stratton, Ohio, hereby exercise my right to prohibit the practice of going in or upon the below-listed private property by uninvited canvassers, solicitors, peddlers, hawkers, merchants and vendors.

I am registering the following properties in accordance with Section 116.07 of the Codified Ordinances of the Village of Stratton, Ohio:

[List properties where the practice *is prohibited*]

1. 118 3rd Ave.

My name and address (where I reside):

Name: Joseph A. Zdinak
Street Address: 118 3rd Ave.
P.O. Box: 226
City: Stratton State: Ohio Zip: 43961

I, the undersigned, am the owner or lawful occupant of private property which is described in this No Solicitation Form, and I, hereby, give notice that I prohibit the practice of uninvited canvassers, solicitors, peddlers, hawkers,

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itinerant merchants or transient vendors coming upon my private property for the purpose of soliciting the attention of any occupant of that property or for the purpose of advertising, promoting, selling and/or explaining any product, service, organization or cause, or for the purpose of soliciting orders for the sales of any product.

I have posted a sign which reads, "No Solicitation", at the property, and the sign is located so that it is reasonably visible to persons who might be considering entering upon the property.

I consider any person entering upon the property for a prohibited purpose to be a trespasser.

The only exceptions to this prohibition are the persons and organizations listed below:

[left blank]

s/ Joseph A. Zdinak
OWNER/OCCUPANT

Date: 11-20-98

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ALLOWED (check)

1. Scouting Organizations _____ ☒
2. Camp Fire Girls _____ ☐
3. Childrens Sports Organizations _____ ☐
4. Childrens Solicitation for Supporting School Activities _____ ☐
5. Volunteer Fire Dept. _____ ☐
6. Jehovah Witnesses _____ ☐
7. Political Candidates _____ ☐
8. Beauty Products Sales People _____ ☐
9. Watkins Sales _____ ☐
10. Christmas Carolers _____ ☒
11. Parcel Delivery _____ ☒
12. Little League _____ ☐
13. Trick or Treaters during Halloween Season _____ ☒
14. Police _____ ☐
15. Campaigners _____ ☐
16. Newspaper Carriers _____ ☐
17. Persons Affiliated with _____ Church _____ ____ ☐
18. Food Salesman _____ ☐
19. Salespersons _____ ☐

You may choose from this list and add more to the second page of the form if necessary.

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EXHIBIT 34k

NO SOLICITATION REGISTRATION FORM

TO: MAYOR OF THE VILLAGE OF STRATTON, OHIO

I, the undersigned, being the lawful owner or occupant of private property in the Village of Stratton, Ohio, hereby exercise my right to prohibit the practice of going in or upon the below-listed private property by uninvited canvassers, solicitors, peddlers, hawkers, merchants and vendors.

I am registering the following properties in accordance with Section 116.07 of the Codified Ordinances of the Village of Stratton, Ohio:

[List properties where the practice *is prohibited*]

1. 105-1st St. – Tavern

2. 107-1st St. – Truck Stop

My name and address (where I reside):

Name: Abdalla's
Street Address: 105-1st St.
P.O. Box: Box 33
City: Stratton State: Ohio Zip: 43961

I, the undersigned, am the owner or lawful occupant of private property which is described in this No Solicitation

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Form, and I, hereby, give notice that I prohibit the practice of uninvited canvassers, solicitors, peddlers, hawkers, itinerant merchants or transient vendors coming upon my private property for the purpose of soliciting the attention of any occupant of that property or for the purpose of advertising, promoting, selling and/or explaining any product, service, organization or cause, or for the purpose of soliciting orders for the sales of any product.

I have posted a sign which reads, "No Solicitation", at the property, and the sign is located so that it is reasonably visible to persons who might be considering entering upon the property.

I consider any person entering upon the property for a prohibited purpose to be a trespasser.

The only exceptions to this prohibition are the persons and organizations listed below:

[left blank]

s/ John M. Abdalla
OWNER/OCCUPANT

Date: 9-16-98

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ALLOWED (check)

1. Scouting Organizations _____ ☐
2. Camp Fire Girls _____ ☐
3. Childrens Sports Organizations _____ ☐
4. Childrens Solicitation for Supporting School Activities _____ ☐
5. Volunteer Fire Dept. _____ ☐
6. Jehovah Witnesses _____ ☐
7. Political Candidates _____ ☐
8. Beauty Products Sales People _____ ☐
9. Watkins Sales _____ ☐
10. Christmas Carolers _____ ☐
11. Parcel Delivery _____ ☐
12. Little League _____ ☐
13. Trick or Treaters during Halloween Season _____ ☐
14. Police _____ ☐
15. Campaigners _____ ☐
16. Newspaper Carriers _____ ☐
17. Persons Affiliated with _____ Church _____ ____ ☐
18. Food Salesman _____ ☐
19. Salespersons _____ ☐

You may choose from this list and add more to the second page of the form if necessary.

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EXHIBIT 34I

NO SOLICITATION REGISTRATION FORM

TO: MAYOR OF THE VILLAGE OF STRATTON, OHIO

I, the undersigned, being the lawful owner or occupant of private property in the Village of Stratton, Ohio, hereby exercise my right to prohibit the practice of going in or upon the below-listed private property by uninvited canvassers, solicitors, peddlers, hawkers, merchants and vendors.

I am registering the following properties in accordance with Section 116.07 of the Codified Ordinances of the Village of Stratton, Ohio:

[List properties where the practice *is prohibited*]

1. 117 3rd Ave

My name and address (where I reside):

Name: James L. Martin
Street Address: 117 3rd Ave
P.O. Box: 55
City: Stratton State: OH Zip: 43961

I, the undersigned, am the owner or lawful occupant of private property which is described in this No Solicitation Form, and I, hereby, give notice that I prohibit the practice of uninvited canvassers, solicitors, peddlers, hawkers,

Appendix I(6)

itinerant merchants or transient vendors coming upon my private property for the purpose of soliciting the attention of any occupant of that property or for the purpose of advertising, promoting, selling and/or explaining any product, service, organization or cause, or for the purpose of soliciting orders for the sales of any product.

I have posted a sign which reads, "No Solicitation", at the property, and the sign is located so that it is reasonably visible to persons who might be considering entering upon the property.

I consider any person entering upon the property for a prohibited purpose to be a trespasser.

The only exceptions to this prohibition are the persons and organizations listed below:

[left blank]

s/ James L. Martin
OWNER/OCCUPANT

Date: 11-20-98

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ALLOWED (check)

1. Scouting Organizations _____ ☒
2. Camp Fire Girls _____ ☒
3. Childrens Sports Organizations _____ ☐
4. Childrens Solicitation for Supporting School Activities _____ ☒
5. Volunteer Fire Dept. _____ ☒
6. Jehovah Witnesses _____ ☐
7. Political Candidates _____ ☐
8. Beauty Products Sales People _____ ☐
9. Watkins Sales _____ ☐
10. Christmas Carolers _____ ☒
11. Parcel Delivery _____ ☒
12. Little League _____ ☒
13. Trick or Treaters during Halloween Season _____ ☒
14. Police _____ ☒
15. Campaigners _____ ☐
16. Newspaper Carriers _____ ☒
17. Persons Affiliated with _____ Church _____ ____ ☐
18. Food Salesman _____ ☐
19. Salespersons _____ ☐

You may choose from this list and add more to the second page of the form if necessary.

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EXHIBIT 34m

NO SOLICITATION REGISTRATION FORM

TO: MAYOR OF THE VILLAGE OF STRATTON, OHIO

I, the undersigned, being the lawful owner or occupant of private property in the Village of Stratton, Ohio, hereby exercise my right to prohibit the practice of going in or upon the below-listed private property by uninvited canvassers, solicitors, peddlers, hawkers, merchants and vendors.

I am registering the following properties in accordance with Section 116.07 of the Codified Ordinances of the Village of Stratton, Ohio:

[List properties where the practice *is prohibited*]

1. 401 4th St.

My name and address (where I reside):

Name: Robert Koehnlein
Street Address: 401 4th St.
P.O. Box: 46
City: Stratton State: OH Zip: 43961

I, the undersigned, am the owner or lawful occupant of private property which is described in this No Solicitation Form, and I, hereby, give notice that I prohibit the practice of uninvited canvassers, solicitors, peddlers, hawkers,

Appendix I(6)

itinerant merchants or transient vendors coming upon my private property for the purpose of soliciting the attention of any occupant of that property or for the purpose of advertising, promoting, selling and/or explaining any product, service, organization or cause, or for the purpose of soliciting orders for the sales of any product.

I have posted a sign which reads, "No Solicitation", at the property, and the sign is located so that it is reasonably visible to persons who might be considering entering upon the property.

I consider any person entering upon the property for a prohibited purpose to be a trespasser.

The only exceptions to this prohibition are the persons and organizations listed below:

[left blank]

s/ Robert Koehnlein
OWNER/OCCUPANT

Date: 11-2-98

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ALLOWED (check)

1. Scouting Organizations _____ ☒
2. Camp Fire Girls _____ ☒
3. Childrens Sports Organizations _____ ☒
4. Childrens Solicitation for Supporting School Activities _____ ☒
5. Volunteer Fire Dept. _____ ☒
6. Jehovah Witnesses _____ ☐
7. Political Candidates _____ ☐
8. Beauty Products Sales People _____ ☐
9. Watkins Sales _____ ☐
10. Christmas Carolers _____ ☒
11. Parcel Delivery _____ ☒
12. Little League _____ ☒
13. Trick or Treaters during Halloween Season _____ ☒
14. Police _____ ☒
15. Campaigners _____ ☐
16. Newspaper Carriers _____ ☐
17. Persons Affiliated with _____ Church _____ ____ ☐
18. Food Salesman _____ ☐
19. Salespersons _____ ☐

You may choose from this list and add more to the second page of the form if necessary.

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EXHIBIT 34n

NO SOLICITATION REGISTRATION FORM

TO: MAYOR OF THE VILLAGE OF STRATTON, OHIO

I, the undersigned, being the lawful owner or occupant of private property in the Village of Stratton, Ohio, hereby exercise my right to prohibit the practice of going in or upon the below-listed private property by uninvited canvassers, solicitors, peddlers, hawkers, merchants and vendors.

I am registering the following properties in accordance with Section 116.07 of the Codified Ordinances of the Village of Stratton, Ohio:

[List properties where the practice *is prohibited*]

1. 122 Third Ave.

My name and address (where I reside):

Name: Sally & Mark DeBee
Street Address: 122 Third Ave.
P.O. Box: 211
City: Stratton State: Ohio Zip: 43961

I, the undersigned, am the owner or lawful occupant of private property which is described in this No Solicitation Form, and I, hereby, give notice that I prohibit the practice of uninvited canvassers, solicitors, peddlers, hawkers,

Appendix I(6)

itinerant merchants or transient vendors coming upon my private property for the purpose of soliciting the attention of any occupant of that property or for the purpose of advertising, promoting, selling and/or explaining any product, service, organization or cause, or for the purpose of soliciting orders for the sales of any product.

I have posted a sign which reads, "No Solicitation", at the property, and the sign is located so that it is reasonably visible to persons who might be considering entering upon the property.

I consider any person entering upon the property for a prohibited purpose to be a trespasser.

The only exceptions to this prohibition are the persons and organizations listed below:

[left blank]

s/ Sally & Mark DeBee
OWNER/OCCUPANT

Date: 9-21-98

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ALLOWED (check)

1. Scouting Organizations _____ ☐
2. Camp Fire Girls _____ ☐
3. Childrens Sports Organizations _____ ☐
4. Childrens Solicitation for Supporting School Activities _____ ☒
5. Volunteer Fire Dept. _____ ☐
6. Jehovah Witnesses _____ ☒
7. Political Candidates _____ ☐
8. Beauty Products Sales People _____ ☐
9. Watkins Sales _____ ☐
10. Christmas Carolers _____ ☐
11. Parcel Delivery _____ ☐
12. Little League _____ ☐
13. Trick or Treaters during Halloween Season _____ ☐
14. Police _____ ☐
15. Campaigners _____ ☐
16. Newspaper Carriers _____ ☐
17. Persons Affiliated with _____ Church _____ ___ ☐
18. Food Salesman _____ ☐
19. Salespersons _____ ☐

You may choose from this list and add more to the second page of the form if necessary.

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EXHIBIT 34o

NO SOLICITATION REGISTRATION FORM

TO: MAYOR OF THE VILLAGE OF STRATTON, OHIO

I, the undersigned, being the lawful owner or occupant of private property in the Village of Stratton, Ohio, hereby exercise my right to prohibit the practice of going in or upon the below-listed private property by uninvited canvassers, solicitors, peddlers, hawkers, merchants and vendors.

I am registering the following properties in accordance with Section 116.07 of the Codified Ordinances of the Village of Stratton, Ohio:

[List properties where the practice *is prohibited*]

1. 204 2nd St. rear

My name and address (where I reside):

Name: Donald R. Brooks
Street Address: 204 2nd St. rear
P.O. Box: 202
City: Stratton State: Ohio Zip: 43961

I, the undersigned, am the owner or lawful occupant of private property which is described in this No Solicitation Form, and I, hereby, give notice that I prohibit the practice of uninvited canvassers, solicitors, peddlers, hawkers,

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itinerant merchants or transient vendors coming upon my private property for the purpose of soliciting the attention of any occupant of that property or for the purpose of advertising, promoting, selling and/or explaining any product, service, organization or cause, or for the purpose of soliciting orders for the sales of any product.

I have posted a sign which reads, "No Solicitation", at the property, and the sign is located so that it is reasonably visible to persons who might be considering entering upon the property.

I consider any person entering upon the property for a prohibited purpose to be a trespasser.

The only exceptions to this prohibition are the persons and organizations listed below:

[left blank]

s/ Donald R. Brooks
OWNER/OCCUPANT

Date: 9-25-98

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ALLOWED (check)

1. Scouting Organizations _____ ☑
2. Camp Fire Girls _____ ☑
3. Childrens Sports Organizations _____ ☑
4. Childrens Solicitation for Supporting School Activities _____ ☑
5. Volunteer Fire Dept. _____ ☑
6. Jehovah Witnesses _____ ☐
7. Political Candidates _____ ☐
8. Beauty Products Sales People _____ ☐
9. Watkins Sales _____ ☐
10. Christmas Carolers _____ ☑
11. Parcel Delivery _____ ☐
12. Little League _____ ☑
13. Trick or Treaters during Halloween Season _____ ☑
14. Police _____ ☑
15. Campaigners _____ ☐
16. Newspaper Carriers _____ ☐
17. Persons Affiliated with _____ Church _____ ____ ☐
18. Food Salesman _____ ☐
19. Salespersons _____ ☐

You may choose from this list and add more to the second page of the form if necessary.

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EXHIBIT 34p

NO SOLICITATION REGISTRATION FORM

TO: MAYOR OF THE VILLAGE OF STRATTON, OHIO

I, the undersigned, being the lawful owner or occupant of private property in the Village of Stratton, Ohio, hereby exercise my right to prohibit the practice of going in or upon the below-listed private property by uninvited canvassers, solicitors, peddlers, hawkers, merchants and vendors.

I am registering the following properties in accordance with Section 116.07 of the Codified Ordinances of the Village of Stratton, Ohio:

[List properties where the practice *is prohibited*]

1. Home of Don and Mary Cunningham 204 2nd St.

My name and address (where I reside):

Name: Donald B. Cunningham
Street Address: 204 2nd St.
P.O. Box: #74
City: Stratton State: Ohio Zip: 43961

I, the undersigned, am the owner or lawful occupant of private property which is described in this No Solicitation Form, and I, hereby, give notice that I prohibit the practice of uninvited canvassers, solicitors, peddlers, hawkers,

Appendix I(6)

itinerant merchants or transient vendors coming upon my private property for the purpose of soliciting the attention of any occupant of that property or for the purpose of advertising, promoting, selling and/or explaining any product, service, organization or cause, or for the purpose of soliciting orders for the sales of any product.

I have posted a sign which reads, "No Solicitation", at the property, and the sign is located so that it is reasonably visible to persons who might be considering entering upon the property.

I consider any person entering upon the property for a prohibited purpose to be a trespasser.

The only exceptions to this prohibition are the persons and organizations listed below:

[left blank]

s/ Donald B. Cunningham
OWNER/OCCUPANT

Date: 9-26-98

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ALLOWED (check)

1. Scouting Organizations _____ ☑
2. Camp Fire Girls _____ ☑
3. Childrens Sports Organizations _____ ☑
4. Childrens Solicitation for Supporting School Activities _____ ☑
5. Volunteer Fire Dept. _____ ☑
6. Jehovah Witnesses _____ ☐
7. Political Candidates _____ ☐
8. Beauty Products Sales People _____ ☐
9. Watkins Sales _____ ☐
10. Christmas Carolers _____ ☑
11. Parcel Delivery _____ ☑
12. Little League _____ ☑
13. Trick or Treaters during Halloween Season _____ ☑
14. Police _____ ☑
15. Campaigners _____ ☐
16. Newspaper Carriers _____ ☑
17. Persons Affiliated with _____ Church _____ ____ ☐
18. Food Salesman _____ ☐
19. Salespersons _____ ☐

You may choose from this list and add more to the second page of the form if necessary.

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EXHIBIT 34q

NO SOLICITATION REGISTRATION FORM

TO: MAYOR OF THE VILLAGE OF STRATTON, OHIO

I, the undersigned, being the lawful owner or occupant of private property in the Village of Stratton, Ohio, hereby exercise my right to prohibit the practice of going in or upon the below-listed private property by uninvited canvassers, solicitors, peddlers, hawkers, merchants and vendors.

I am registering the following properties in accordance with Section 116.07 of the Codified Ordinances of the Village of Stratton, Ohio:

[List properties where the practice *is prohibited*]

1. 124 2nd Ave.

My name and address (where I reside):

Name: Michael & Patricia Kelley
Street Address: 124 2nd Ave.
P.O. Box: 161
City: Stratton State: Ohio Zip: 43961

I, the undersigned, am the owner or lawful occupant of private property which is described in this No Solicitation Form, and I, hereby, give notice that I prohibit the practice of uninvited canvassers, solicitors, peddlers, hawkers,

Appendix I(6)

itinerant merchants or transient vendors coming upon my private property for the purpose of soliciting the attention of any occupant of that property or for the purpose of advertising, promoting, selling and/or explaining any product, service, organization or cause, or for the purpose of soliciting orders for the sales of any product.

I have posted a sign which reads, "No Solicitation", at the property, and the sign is located so that it is reasonably visible to persons who might be considering entering upon the property.

I consider any person entering upon the property for a prohibited purpose to be a trespasser.

The only exceptions to this prohibition are the persons and organizations listed below:

Stratton Vol. Fire Dept.
Schwans' Foods

s/ Patricia Kelley
OWNER/OCCUPANT

Date: 9-23-98

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ALLOWED (check)

1. Scouting Organizations _____ ☒
2. Camp Fire Girls _____ ☐
3. Childrens Sports Organizations _____ ☐
4. Childrens Solicitation for Supporting School Activities _____ ☒
5. Volunteer Fire Dept. _____ ☐
6. Jehovah Witnesses _____ ☐
7. Political Candidates _____ ☐
8. Beauty Products Sales People _____ ☐
9. Watkins Sales _____ ☐
10. Christmas Carolers _____ ☐
11. Parcel Delivery _____ ☒
12. Little League _____ ☐
13. Trick or Treaters during Halloween Season _____ ☒
14. Police _____ ☐
15. Campaigners _____ ☐
16. Newspaper Carriers _____ ☐
17. Persons Affiliated with _____ Church _____ ____ ☐
18. Food Salesman _____ ☐
19. Salespersons _____ ☐

You may choose from this list and add more to the second page of the form if necessary.

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EXHIBIT 34r

NO SOLICITATION REGISTRATION FORM

TO: MAYOR OF THE VILLAGE OF STRATTON, OHIO

I, the undersigned, being the lawful owner or occupant of private property in the Village of Stratton, Ohio, hereby exercise my right to prohibit the practice of going in or upon the below-listed private property by uninvited canvassers, solicitors, peddlers, hawkers, merchants and vendors.

I am registering the following properties in accordance with Section 116.07 of the Codified Ordinances of the Village of Stratton, Ohio:

[List properties where the practice *is prohibited*]

1. 107 Third Ave.

My name and address (where I reside):

Name: Wm. & Katherine Scheel
Street Address: 107 Third Ave.
P.O. Box: Box 163
City: Stratton State: OH Zip: 43961

I, the undersigned, am the owner or lawful occupant of private property which is described in this No Solicitation Form, and I, hereby, give notice that I prohibit the practice of uninvited canvassers, solicitors, peddlers, hawkers,

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itinerant merchants or transient vendors coming upon my private property for the purpose of soliciting the attention of any occupant of that property or for the purpose of advertising, promoting, selling and/or explaining any product, service, organization or cause, or for the purpose of soliciting orders for the sales of any product.

I have posted a sign which reads, "No Solicitation", at the property, and the sign is located so that it is reasonably visible to persons who might be considering entering upon the property.

I consider any person entering upon the property for a prohibited purpose to be a trespasser.

The only exceptions to this prohibition are the persons and organizations listed below:

Schwan's Foods
Stratton Vol. Fire Dept.

s/ Katherine Scheel
OWNER/OCCUPANT

Date: 9/23/98

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ALLOWED (check)

1. Scouting Organizations _____ ☒
2. Camp Fire Girls _____ ☐
3. Childrens Sports Organizations _____ ☐
4. Childrens Solicitation for Supporting School Activities _____ ☒
5. Volunteer Fire Dept. _____ ☐
6. Jehovah Witnesses _____ ☐
7. Political Candidates _____ ☐
8. Beauty Products Sales People _____ ☐
9. Watkins Sales _____ ☐
10. Christmas Carolers _____ ☐
11. Parcel Delivery _____ ☒
12. Little League _____ ☐
13. Trick or Treaters during Halloween Season _____ ☒
14. Police _____ ☐
15. Campaigners _____ ☐
16. Newspaper Carriers _____ ☐
17. Persons Affiliated with _____ Church _____ ____ ☐
18. Food Salesman _____ ☐
19. Salespersons _____ ☐

You may choose from this list and add more to the second page of the form if necessary.

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EXHIBIT 34s

NO SOLICITATION REGISTRATION FORM

TO: MAYOR OF THE VILLAGE OF STRATTON, OHIO

I, the undersigned, being the lawful owner or occupant of private property in the Village of Stratton, Ohio, hereby exercise my right to prohibit the practice of going in or upon the below-listed private property by uninvited canvassers, solicitors, peddlers, hawkers, merchants and vendors.

I am registering the following properties in accordance with Section 116.07 of the Codified Ordinances of the Village of Stratton, Ohio:

[List properties where the practice *is prohibited*]

1. 304 3rd Street Stratton

My name and address (where I reside):

Name: Donald & Sandra Racz
Street Address: 304 3rd St.
P.O. Box: 203
City: Stratton State: Ohio Zip: 43961

I, the undersigned, am the owner or lawful occupant of private property which is described in this No Solicitation Form, and I, hereby, give notice that I prohibit the practice of uninvited canvassers, solicitors, peddlers, hawkers,

Appendix I(6)

itinerant merchants or transient vendors coming upon my private property for the purpose of soliciting the attention of any occupant of that property or for the purpose of advertising, promoting, selling and/or explaining any product, service, organization or cause, or for the purpose of soliciting orders for the sales of any product.

I have posted a sign which reads, "No Solicitation", at the property, and the sign is located so that it is reasonably visible to persons who might be considering entering upon the property.

I consider any person entering upon the property for a prohibited purpose to be a trespasser.

The only exceptions to this prohibition are the persons and organizations listed below:

[left blank]

s/ Donald J. Racz
s/ Sandra L. Racz
OWNER/OCCUPANT

Date: 9/14/98

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ALLOWED (check)

1. Scouting Organizations _____ ☑
2. Camp Fire Girls _____ ☑
3. Childrens Sports Organizations _____ ☑
4. Childrens Solicitation for Supporting School Activities _____ ☑
5. Volunteer Fire Dept. _____ ☑
6. Jehovah Witnesses _____ ☐
7. Political Candidates _____ ☐
8. Beauty Products Sales People _____ ☑
9. Watkins Sales _____ ☑
10. Christmas Carolers _____ ☑
11. Parcel Delivery _____ ☑
12. Little League _____ ☑
13. Trick or Treaters during Halloween Season _____ ☑
14. Police _____ ☑
15. Campaigners _____ ☑
16. Newspaper Carriers _____ ☑
17. Persons Affiliated with Stratton Church _____ ☑
18. Food Salesman _____ ☑
19. Salespersons _____ ☑

You may choose from this list and add more to the second page of the form if necessary.

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EXHIBIT 34t

NO SOLICITATION REGISTRATION FORM

TO: MAYOR OF THE VILLAGE OF STRATTON, OHIO

I, the undersigned, being the lawful owner or occupant of private property in the Village of Stratton, Ohio, hereby exercise my right to prohibit the practice of going in or upon the below-listed private property by uninvited canvassers, solicitors, peddlers, hawkers, merchants and vendors.

I am registering the following properties in accordance with Section 116.07 of the Codified Ordinances of the Village of Stratton, Ohio:

[List properties where the practice *is prohibited*]

1. 807 Stratton Hts.

My name and address (where I reside):

Name: Kathy Scheel
Street Address: 807 Stratton Hts.
P.O. Box: 71
City: Stratton State: Ohio Zip: 43961

I, the undersigned, am the owner or lawful occupant of private property which is described in this No Solicitation Form, and I, hereby, give notice that I prohibit the practice of uninvited canvassers, solicitors, peddlers, hawkers,

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itinerant merchants or transient vendors coming upon my private property for the purpose of soliciting the attention of any occupant of that property or for the purpose of advertising, promoting, selling and/or explaining any product, service, organization or cause, or for the purpose of soliciting orders for the sales of any product.

I have posted a sign which reads, "No Solicitation", at the property, and the sign is located so that it is reasonably visible to persons who might be considering entering upon the property.

I consider any person entering upon the property for a prohibited purpose to be a trespasser.

The only exceptions to this prohibition are the persons and organizations listed below:

Stratton Vol. Fire Dept.
Schwans' Foods

s/ Kathy J. Scheel
OWNER/OCCUPANT

Date: 9-23-98

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ALLOWED (check)

1. Scouting Organizations _____ ☒
2. Camp Fire Girls _____ ☐
3. Childrens Sports Organizations _____ ☐
4. Childrens Solicitation for Supporting School Activities _____ ☒
5. Volunteer Fire Dept. _____ ☐
6. Jehovah Witnesses _____ ☐
7. Political Candidates _____ ☐
8. Beauty Products Sales People _____ ☐
9. Watkins Sales _____ ☐
10. Christmas Carolers _____ ☒
11. Parcel Delivery _____ ☐
12. Little League _____ ☐
13. Trick or Treaters during Halloween Season _____ ☒
14. Police _____ ☐
15. Campaigners _____ ☐
16. Newspaper Carriers _____ ☐
17. Persons Affiliated with _____ Church _____ ____ ☐
18. Food Salesman _____ ☐
19. Salespersons _____ ☐

You may choose from this list and add more to the second page of the form if necessary.

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EXHIBIT 34u

NO SOLICITATION REGISTRATION FORM

TO: MAYOR OF THE VILLAGE OF STRATTON, OHIO

I, the undersigned, being the lawful owner or occupant of private property in the Village of Stratton, Ohio, hereby exercise my right to prohibit the practice of going in or upon the below-listed private property by uninvited canvassers, solicitors, peddlers, hawkers, merchants and vendors.

I am registering the following properties in accordance with Section 116.07 of the Codified Ordinances of the Village of Stratton, Ohio:

[List properties where the practice *is prohibited*]

1. 106 2nd Ave. Stratton

My name and address (where I reside):

Name: Irene R. Blischak
Street Address: 106 2nd Ave.
P.O. Box: Bx 77
City: Stratton State: Ohio Zip: 43961

I, the undersigned, am the owner or lawful occupant of private property which is described in this No Solicitation Form, and I, hereby, give notice that I prohibit the practice of uninvited canvassers, solicitors, peddlers, hawkers,

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itinerant merchants or transient vendors coming upon my private property for the purpose of soliciting the attention of any occupant of that property or for the purpose of advertising, promoting, selling and/or explaining any product, service, organization or cause, or for the purpose of soliciting orders for the sales of any product.

I have posted a sign which reads, "No Solicitation", at the property, and the sign is located so that it is reasonably visible to persons who might be considering entering upon the property.

I consider any person entering upon the property for a prohibited purpose to be a trespasser.

The only exceptions to this prohibition are the persons and organizations listed below:

[left blank]

_____
OWNER/OCCUPANT

Date: 9/24/98

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ALLOWED (check)

1. Scouting Organizations _____ ☑
2. Camp Fire Girls _____ ☑
3. Childrens Sports Organizations _____ ☑
4. Childrens Solicitation for Supporting School Activities _____ ☑
5. Volunteer Fire Dept. _____ ☑
6. Jehovah Witnesses _____ ☐
7. Political Candidates _____ ☑
8. Beauty Products Sales People _____ ☐
9. Watkins Sales _____ ☐
10. Christmas Carolers _____ ☐
11. Parcel Delivery _____ ☑
12. Little League _____ ☑
13. Trick or Treaters during Halloween Season _____ ☐
14. Police _____ ☑
15. Campaigners _____ ☐
16. Newspaper Carriers _____ ☑
17. Persons Affiliated with Stratton Church _____ ____ ☐
18. Food Salesman _____ ☐
19. Salespersons _____ ☐

You may choose from this list and add more to the second page of the form if necessary.

APPENDIX I(7) — DEFENDANTS' EXHIBIT 35a-f (ALL PERMIT APPLICATIONS SINCE JANUARY 1, 1994 ON FILE WITH THE VILLAGE OF STRATTON)

EXHIBIT 35a

SOLICITOR'S REGISTRATION FORM

APPLICATION FOR PERMIT AND REGISTRATION FOR CANVASSING, SOLICITING, ETC.
(Sections 116.03 and 116.04 – Codified Ordinances)

TO: MAYOR OF THE VILLAGE OF STRATTON, OHIO

The undersigned Applicant hereby makes application for a Permit and Registration, authorizing the Applicant to canvass, solicit, peddle, hawk or sell merchandise or services, as permitted under the provisions of Chapter 116 of the Codified Ordinances of the Village of Stratton, Ohio.

Applicant hereby submits the following information, as required by Section 116.03 of the Codified Ordinances of the Village of Stratton, Ohio:

1.(a) Name and home address of Applicant:

Salli Hall
PO Box 173
Empire, Ohio 43926

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(b) Applicant's residence address for the previous five (5) years:

Lot 4 Iris Drive
Toronto, OH 43964

2. Description of nature and purpose of business, promotion, solicitation, organization, cause and/or goods or services offered:

Riversweet Citrus Fruit
Choir – Stanton JR High

3. Name and address of employer or affiliated organization:

Riversweet Citrus
Mrs. Dinger – teacher
Stanton JR High – Edison Local
St. Rt. 213 – Hamm, OH 43930

* Credentials shown? Yes___ No___

4. Times during which privilege to canvass or solicit is desired?

Oct. 1998
Dec. 5th '98 2:45-9 P

5. a) Name and address of person who invited the Applicant to go in or upon private property (if any):

[left blank]

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b) List of specific addresses of each private residence at which the Registrant intends to engage in conduct described in Section 116.01.

All of Stratton except those not permitted to solicitate to per ordinance

6. Other information concerning business or purpose:

[left blank]

I hereby certify that the information given above is true, accurate and complete, as required by Sections 116.03 and 116.04 of the Codified Ordinances of the Village of Stratton, Ohio.

s/ Salli Hall
APPLICANT

s/ Sally DeBee
Grandmother

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EXHIBIT 35b

SOLICITOR'S REGISTRATION FORM

APPLICATION FOR PERMIT AND REGISTRATION FOR CANVASSING, SOLICITING, ETC.
(Sections 116.03 and 116.04 – Codified Ordinances)

TO: MAYOR OF THE VILLAGE OF STRATTON, OHIO

The undersigned Applicant hereby makes application for a Permit and Registration, authorizing the Applicant to canvass, solicit, peddle, hawk or sell merchandise or services, as permitted under the provisions of Chapter 116 of the Codified Ordinances of the Village of Stratton, Ohio.

Applicant hereby submits the following information, as required by Section 116.03 of the Codified Ordinances of the Village of Stratton, Ohio:

1.(a) Name and home address of Applicant:

Katie Meadows
P.O. Box 195
Stratton, Ohio 43961

(b) Applicant's residence address for the previous five (5) years:

P.O. Box 195
Stratton, Ohio 43961

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2. Description of nature and purpose of business, promotion, solicitation, organization, cause and/or goods or services offered:

to raise money for a school related field trip.

3. Name and address of employer or affiliated organization:

Wellsville High School
Center Street
Wellsville, Ohio 43968
(330) 532-

* Credentials shown? Yes ✓ No___
School form & product

4. Times during which privilege to canvass or solicit is desired?

10:00 am – 8:00 pm Mon-Sun
Nov. 25 1998 – Dec. 2 1998

5. a) Name and address of person who invited the Applicant to go in or upon private property (if any):

N/A

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b) List of specific addresses of each private residence at which the Registrant intends to engage in conduct described in Section 116.01.

All residents except those not permitted by ordinance

6. Other information concerning business or purpose:

[left blank]

I hereby certify that the information given above is true, accurate and complete, as required by Sections 116.03 and 116.04 of the Codified Ordinances of the Village of Stratton, Ohio.

s/ Katie Meadows
APPLICANT

s/ Kelly Meadows
Parent

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EXHIBIT 35c

SOLICITOR'S REGISTRATION FORM

APPLICATION FOR PERMIT AND REGISTRATION FOR CANVASSING, SOLICITING, ETC.
(Sections 116.03 and 116.04 – Codified Ordinances)

TO: MAYOR OF THE VILLAGE OF STRATTON, OHIO

The undersigned Applicant hereby makes application for a Permit and Registration, authorizing the Applicant to canvass, solicit, peddle, hawk or sell merchandise or services, as permitted under the provisions of Chapter 116 of the Codified Ordinances of the Village of Stratton, Ohio.

Applicant hereby submits the following information, as required by Section 116.03 of the Codified Ordinances of the Village of Stratton, Ohio:

1.(a) Name and home address of Applicant:

Dorothy A. Rudder
for minor Krystal Rudder

(b) Applicant's residence address for the previous five (5) years:

Dorothy A. Rudder
507-5th St. Box 48
Stratton, Ohio 43961

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2. Description of nature and purpose of business, promotion, solicitation, organization, cause and/or goods or services offered:

   Sell candy bars for school for Washington D.C. trip

3. Name and address of employer or affiliated organization:

   Irondale Elementary
   Irondale, Ohio
   phone 330-532-4458

* Credentials shown? Yes___ No___

4. Times during which privilege to canvass or solicit is desired?

   Monday thru Friday
   9:00 A.M. – 7:00 P.M.

5. a) Name and address of person who invited the Applicant to go in or upon private property (if any):

   [left blank]

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b) List of specific addresses of each private residence at which the Registrant intends to engage in conduct described in Section 116.01.

All residents except those not permitted by Ordinance.

6. Other information concerning business or purpose:

   [left blank]

I hereby certify that the information given above is true, accurate and complete, as required by Sections 116.03 and 116.04 of the Codified Ordinances of the Village of Stratton, Ohio.

s/ Dorothy A. Rudder
APPLICANT

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EXHIBIT 35d

SOLICITOR'S REGISTRATION FORM

APPLICATION FOR PERMIT AND REGISTRATION FOR CANVASSING, SOLICITING, ETC.
(Sections 116.03 and 116.04 – Codified Ordinances)

TO: MAYOR OF THE VILLAGE OF STRATTON, OHIO

The undersigned Applicant hereby makes application for a Permit and Registration, authorizing the Applicant to canvass, solicit, peddle, hawk or sell merchandise or services, as permitted under the provisions of Chapter 116 of the Codified Ordinances of the Village of Stratton, Ohio.

Applicant hereby submits the following information, as required by Section 116.03 of the Codified Ordinances of the Village of Stratton, Ohio:

1.(a) Name and home address of Applicant:

Alexiz Gotschall or Ed & Tricia Gotschall
802 Stratton Hgts. Rd.
Stratton, OH 43961

(b) Applicant's residence address for the previous five (5) years:

802 Stratton Hgts. Rd.
Stratton, OH 43961

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2. Description of nature and purpose of business, promotion, solicitation, organization, cause and/or goods or services offered:

Lincoln School – Fall Fund Raiser

3. Name and address of employer or affiliated organization:

Lincoln Elementary School
Toronto, Ohio 43964

* Credentials shown? Yes___ No X

4. Times during which privilege to canvass or solicit is desired?

4 pm to 8 pm
From 9/16/98 to 10/1/98

5. a) Name and address of person who invited the Applicant to go in or upon private property (if any):

[left blank]

b) List of specific addresses of each private residence at which the Registrant intends to engage in conduct described in Section 116.01.

All houses except those not permitted by the Ordinance.

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6. Other information concerning business or purpose:

Yearly Fall fund raiser

I hereby certify that the information given above is true, accurate and complete, as required by Sections 116.03 and 116.04 of the Codified Ordinances of the Village of Stratton, Ohio.

s/ Tricia L. Gotschall
APPLICANT

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EXHIBIT 35e

SOLICITOR'S REGISTRATION FORM

APPLICATION FOR PERMIT AND REGISTRATION FOR CANVASSING, SOLICITING, ETC.
(Sections 116.03 and 116.04 – Codified Ordinances)

TO: MAYOR OF THE VILLAGE OF STRATTON, OHIO

The undersigned Applicant hereby makes application for a Permit and Registration, authorizing the Applicant to canvass, solicit, peddle, hawk or sell merchandise or services, as permitted under the provisions of Chapter 116 of the Codified Ordinances of the Village of Stratton, Ohio.

Applicant hereby submits the following information, as required by Section 116.03 of the Codified Ordinances of the Village of Stratton, Ohio:

1.(a) Name and home address of Applicant:

Katie Meadows
94 Third Ave.
Stratton, Ohio 43961

(b) Applicant's residence address for the previous five (5) years:

94 Third Ave.
Stratton, Ohio 43961

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2. Description of nature and purpose of business, promotion, solicitation, organization, cause and/or goods or services offered:

High School Music Dept. Candy Sale

3. Name and address of employer or affiliated organization:

Wellsville High School Band
Center St.
Wellsville, Ohio 43968

* Credentials shown? Yes___ No___

4. Times during which privilege to canvass or solicit is desired?

9-16-98 thru 10-1-98
3:30 pm thru 8:00 pm

5. a) Name and address of person who invited the Applicant to go in or upon private property (if any):

none

b) List of specific addresses of each private residence at which the Registrant intends to engage in conduct described in Section 116.01.

All resident houses except those not permitted by Ordinance.

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6. Other information concerning business or purpose:

none

I hereby certify that the information given above is true, accurate and complete, as required by Sections 116.03 and 116.04 of the Codified Ordinances of the Village of Stratton, Ohio.

s/ Katie Meadows
APPLICANT

s/ Kelly Meadows

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EXHIBIT 35f

SOLICITOR'S REGISTRATION FORM

APPLICATION FOR PERMIT AND REGISTRATION FOR CANVASSING, SOLICITING, ETC.
(Sections 116.03 and 116.04 – Codified Ordinances)

TO: MAYOR OF THE VILLAGE OF STRATTON, OHIO

The undersigned Applicant hereby makes application for a Permit and Registration, authorizing the Applicant to canvass, solicit, peddle, hawk or sell merchandise or services, as permitted under the provisions of Chapter 116 of the Codified Ordinances of the Village of Stratton, Ohio.

Applicant hereby submits the following information, as required by Section 116.03 of the Codified Ordinances of the Village of Stratton, Ohio:

1.(a) Name and home address of Applicant:

Kelly Meadows
P.O. Box 195
94 Third Ave
Stratton, OH 43961

(b) Applicant's residence address for the previous five (5) years:

same

Appendix I(7)

2. Description of nature and purpose of business, promotion, solicitation, organization, cause and/or goods or services offered:

School fundraiser

3. Name and address of employer or affiliated organization:

Fairview School
Wellsville, OH

* Credentials shown? Yes ✓ No ___

4. Times during which privilege to canvass or solicit is desired?

Sat & Sun Afternoons & Weekday Evenings

5. a) Name and address of person who invited the Applicant to go in or upon private property (if any):

[left blank]

b) List of specific addresses of each private residence at which the Registrant intends to engage in conduct described in Section 116.01.

All resident except those not permitted by ordinance.

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6. Other information concerning business or purpose:

[left blank]

I hereby certify that the information given above is true, accurate and complete, as required by Sections 116.03 and 116.04 of the Codified Ordinances of the Village of Stratton, Ohio.

s/ Kelly Meadows
APPLICANT

s/ Leah Meadows

APPENDIX I(8) — DEFENDANTS' EXHIBIT 36 (BLANK 'PERMIT TO CANVASS TO SOLICIT, ETC.' FORM)

PERMIT TO CANVASS TO SOLICIT, ETC.

In accordance with the provisions of Section 116.04 of the Codified Ordinances of the Village of Stratton, Ohio, the Mayor of the Village of Stratton, Ohio has issued to the above Applicant a Permit, authorizing the Applicant to canvass, solicit, peddle, hawk, or sell merchandise or services, by going in or upon private property to which the Applicant is invited. Applicant has registered as required by Village Ordinance.

The address or addresses of parties inviting the Applicant appear above in Applicant's Application.

_____
MAYOR

APPENDIX I(9) — DEFENDANTS' EXHIBIT 38 (CURRICULUM VITAE OF HELEN MAC MURRAY, ASSISTANT ATTORNEY GENERAL, CHIEF, CONSUMER PROTECTION SECTION)

HELEN MAC MURRAY
34 NORTH REMINGTON ROAD
BEXLEY, OHIO 43209-1441 • (614) 237-1639

EDUCATION

1987 **The University of Toledo College of Law**
Ohio

- Juris Doctor
- Dean's List, Law Review
- National Appellate Advocacy Competition, Third Place

1984 **Stockton State College**
Pomona, New Jersey

- B.A., Political Science
- Founding Chairperson, Student Senate
- Editor-in-Chief, School newspaper

Appendix I(9)

EXPERIENCE

1995 – present **Attorney General of Ohio**
Columbus, Ohio
Chief, Consumer Protection Section

- Chief administrative officer of 80+ member staff of attorneys, investigators, educators, mediators and union support staff charged with the enforcement of Ohio's criminal and civil consumer protection laws.
- Coordinate and supervise all section legal and investigative affairs and employment actions.
- Serve as the Attorney General's media consumer spokesperson.
- Negotiate and direct communications with businesses.
- Develop relationships with other federal, state and local agencies and community and civic groups.
- Testify before and lobby the Ohio legislature.
- Speak on a multitude of consumer issues.
- Provide training for section and office wide investigative staff.
- Produce state wide publications.

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1992 – 1995 **Thompson, Hine & Flory**
Columbus, Ohio
Employment law litigator

- Senior associate with first chair responsibilities for defending employment litigation brought against Fortune 500 clients.
- Developed new business clients.
- Top billing associate.

1986 – 1992 **Squire, Sanders & Dempsey**
Columbus, Ohio
Employment law litigator

- Associate representing manufacturing clients in employment matters.
- Responsible for full litigation docket.

ACTIVITIES

Ohio Women's Bar Association, Vice President

Bexley Charter Review Commission, Co-Chairperson

Bexley Technology Commission, Founding Vice Chairperson

Bexley PTO, Secretary

Appendix I(9)

International Association of Prosecutors

Federal Bar Association

Franklin County Judicial Salute Committee

Columbus Bar Foundation Fellow

Legal Aid Society, LARP volunteer

Ohio Mock Trial Program, team advisor and judge

Franklin County Court of Common Pleas, volunteer mediator

CBA Homeless Project, volunteer attorney

YWCA, volunteer

CHOICES for Victims of Domestic Violence, Past Board President

American Inns of Court, Past President

Women Lawyers of Franklin County, Past Board Trustee

Voinovich for Governor, Media Watch Coordinator

Romanoff for Judge, Campaign Manager

Appendix I(9)

REFERENCES

Available upon request.

The breadth of my experience is most easily evidenced by the listing of some of the business and industry groups and state and federal agencies with whom I have worked over the last three years. Attached is also a list of some of the groups to whom I have spoken at their national or state membership meetings or conferences.

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BUSINESS & INDUSTRY ORGANIZATIONS

Ohio Home Builders Association

Ohio Association of Automobile Dealers (and numerous local chapters)

Ohio Pest Control Association (and numerous local chapters)

Ohio Manufactured Housing Association

Ohio Vehicle Leasing Association

Ohio Chamber of Commerce

Better Business Bureaus of Ohio (and all local chapters)

Ohio Council of Retail Merchants

Ohio Jewelers Association

National Home Furnishing Association

Automotive Service Association (auto repair and collision)

National Domestic Auto Manufacturers Association

International Auto Manufacturers Association

Ohio Rent to Own Association

Ohio Bankers Association

Ohio Ticket Brokers Association

Ohio Insurance Institute

MAPS (Motorists Assurance Professional Service)

Ohio Credit Counseling Services

Ohio Association of Movers

Ohio Autos & Trucks Recyclers Association

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Ohio Grocers Association

Ohio Ready Mixed Concrete Association

Ohio-Michigan Farm Equipment Dealers Association

Ohio Florists Association

Ohio Funeral Directors Association

Ohio Peace Officers Training Academy

National Federation of Independent Businesses – Ohio

Direct Marketers Association

Ohio Association of Mortgage Brokers

Ohio Trucking Association

Automobile Dealers Alliance of Ohio

National Center for Dispute Settlement

All major utilities' organizations (phone, gas, oil, cellular, electric, etc.)

Appendix I(9)

NATIONAL AND STATE LEVEL SPEECHES

NAAG/FBI/DOJ National Telemarketing Training Conferences (ongoing)

American Telemarketing Association

New Jersey Department of Aging

National Association of Pest Control Regulators

National Association of Consumer Protection Investigators

Midwest Regional Bankruptcy Seminar

Ohio Clerks of Court Association

Ohio Newspaper Association

Ohio Municipal League

State Employee Retirement System

Ohio Business and Professional Women Conference

Ohio Vehicle Leasing Association

Columbus Bar Association

Ohio CLE Institute

Ohio Prosecutors' Association

National Association of Home Remodelers

Ohio Council on Economic Education

Ohio Boy Scout Council

YWCA "Women's Changing World" Conference

Lifesmarts State Competition

NAACP – Columbus Chapter

Appendix I(9)

GOVERNMENTAL AGENCIES

Ohio Department of Administrative Services
Ohio Department of Aging
Ohio Department of Agriculture
State Board of Chiropractic Examiners
Ohio Civil Rights Commission
Ohio Department of Commerce – multiple divisions
Ohio Consumers' Council
State Board of Cosmetology
Ohio Department of Development
Ohio Department of Education
Board of Embalmers and Funeral Directors
Ohio Environmental Protection Agency
Ohio Expositions Commission
Office of the Governor
Ohio Department of Health
Ohio House of Representatives
Ohio Department of Insurance
Joint Committee on Agency Rule Review
Legislative Service Commission
Ohio Lottery Commission
Ohio State Medical Board

Appendix I(9)

Board of Proprietary School Registration
Department of Public Safety, Bureau of Motor Vehicles
Public Utilities Commission of Ohio
Ohio Department of Rehabilitation and Correction
Secretary of State
Ohio Senate
Ohio Department of Taxation
Ohio Department of Transportation
Ohio Tuition Trust Authority
Ohio Bureau of Workers' Compensation
Department of Youth Services
Ohio Emergency Management Services

Appendix I(9)

GOVERNMENTAL AGENCIES (Federal)

Federal Bureau of Investigation
Federal Trade Commission
Federal Communications Commission
Internal Revenue Service
U.S. Department of Justice
U.S. Marshall's Office
U.S. Postal Service
Secret Service
Social Security Administration
U.S. Department of Transportation
U.S. Customs Service
U.S. Department of Immigration
Consumer Product Safety Commission
Environmental Protection Agency
Federal Reserve System
Food and Drug Administration
Securities and Exchange Commission

Appendix I(9)

MEDIA OUTLETS

ABC News – PrimeTime Live
NBC Nightly News – The Fleecing of America
Dateline NBC
CBS This Morning
CNBC – Steals and Deals
CNN
Court TV
Inside Edition
Hard Copy
New York Times
The Washington Post
U.S. News & World Report
The Wall Street Journal

Regular appearances on all local network affiliate news programs in Columbus, Cleveland, Cincinnati and Toledo

Regular contributions to all major radio stations in the Columbus, Cleveland, Cincinnati and Toledo markets

Dozens of television appearances on local programs such as "Finer With Age" (state-wide public access) and "Friend to Friend" (local Christian station)

Frequent contributions to newspaper stories in every major Ohio newspaper, numerous Ohio local newspapers as well as state and local papers in other states

APPENDIX I(10) — DEFENDANTS' EXHIBIT 39 (DOCUMENTATION PROVIDED BY HELEN MAC MURRAY REGARDING CONSUMER FRAUD)

TRANSIENT CRIME GROUPS

FOR MANY YEARS, SOCIETIES HAVE BEEN PLAGUED BY VARIOUS BANDS OF ROVING THIEVES COMMITTING SCAMS. THESE CRIMINALS WERE INDISCRIMINATELY LABELED AS "GYPSIES". SINCE THE TERM "GYPSY" CAN BE ASSOCIATED WITH ETHNIC GYPSIES KNOWN AS "ROM", CAUTION IS NEEDED WHEN USING THAT TERM. THIS PUBLICATION WILL REFER TO THESE CRIMINALS GENERICALLY AS BEING "TRANSIENT CRIMINALS". TRADITIONALLY, LAW ENFORCEMENT HAS TREATED THESE "TRANSIENT CRIMINALS" AND THEIR ACTIVITIES WITH LOW PRIORITY. THIS LIMITED ENFORCEMENT SERVED ONLY TO MOVE THE PROBLEM FROM ONE JURISDICTION TO ANOTHER. AS LAW ENFORCEMENT AGENCIES STARTED TO SHARE INFORMATION ON THE "TRANSIENT CRIMINALS", IT BECAME APPARENT THAT THE PROBLEM WAS ACTUALLY A FORM OF NON-TRADITIONAL ORGANIZED CRIME. THIS WAS EVIDENT BY THE NETWORKING OF THE PARTICIPANTS, THE HIGH FINANCIAL LOSSES, AND THE LARGE NUMBER OF VICTIMS, OF WHICH MOST WERE ELDERLY.

INVESTIGATIONS HAVE REVEALED THAT A LARGE PERCENTAGE OF THESE "TRANSIENT CRIMINALS" CAN BE LINKED TO THREE MAJOR "TRANSIENT GROUPS" — AMERICAN GYPSIES, EUROPEAN

GYPSIES, AND THE TRAVELERS. KNOWLEDGE OF THESE GROUPS AND THE "TRANSIENT CRIMINALS" WITHIN THEM CAN BE HELPFUL TO LAW ENFORCEMENT IN ITS SEARCH FOR CRIME SUSPECTS. THE SEARCH IS GENERALLY BASED ON THE TYPE OF CRIME AND THE DESCRIPTION OF THE SUSPECTS.

THIS PUBLICATION PROVIDES A BRIEF DESCRIPTION OF THE "TRANSIENT GROUPS" AND THE "TRANSIENT CRIMINALS". A LIST OF COMMON "TRANSIENT CRIMES", SOME INVESTIGATIVE CONCERNS, AND A SOURCE FOR ASSISTANCE IN SUSPECT IDENTIFICATION IS ALSO PROVIDED. IT MUST BE UNDERSTOOD THAT THIS INFORMATION IS *GENERAL* IN NATURE, AND SHOULD NOT BE USED SOLELY AS A BASIS FOR ENFORCEMENT.

PROFILES OF THE MAJOR "TRANSIENT GROUPS"

1. AMERICAN GYPSIES
2. EUROPEAN GYPSIES
3. TRAVELERS
   - ENGLISH TRAVELERS
   - IRISH TRAVELERS
   - SCOTTISH TRAVELERS

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ETHNIC GYPSIES, ALSO KNOWN AS "ROM", ARE BELIEVED TO HAVE ORIGINATED CENTURIES AGO IN THE PUNJAB REGION OF NORTHERN INDIA. MIGRATION TOOK THEM TO CENTRAL EUROPE BY THE 14TH CENTURY. BY THE 16TH CENTURY, THEY HAD SPREAD TO NORTHERN AND EASTERN EUROPE. MIGRATION TO THE UNITED STATES BEGAN IN THE LATE 19TH CENTURY. GYPSIES ARE NOW LABELED BASED ON THE TIME SPENT IN THE UNITED STATES. THE "AMERICAN GYPSIES" GENERALLY HAVE BEEN IN NORTH AMERICA FOR APPROXIMATELY 100 YEARS, WHEREAS THE "EUROPEAN GYPSIES" FOR ONLY THE PAST 30 YEARS.

SOME SCHOLARS SUGGEST THAT THE "TRAVELERS" ORIGINATED FROM THE "GYPSIES". THIS IDEA IS BASED ON THE SIMILARITY OF THEIR "CLOSED SOCIETY" LIFESTYLE AND THEIR UNIQUE LANGUAGE (SLANG OR CANT). MOST "TRAVELERS" THOUGH DENY ANY ASSOCIATION WITH THE ETHNIC GYPSIES. THE "TRAVELER" GROUPS FIRST MIGRATED TO THE UNITED STATES, FROM EUROPE, DURING THE 18TH CENTURY, AND ARE LABELED BY THEIR COUNTRY OF ORIGIN.

THE "TRANSIENT GROUPS" HAVE RETAINED VARIOUS CULTURAL PRACTICES AND SIMILARITIES, WHICH CAN BE DOCUMENTED. THESE SIMILARITIES ARE USEFUL WHEN LOCATING AND TRACKING THESE GROUPS. HOWEVER, THE "CRIMINAL ELEMENT" WITHIN THESE GROUPS HAVE DEMONSTRATED THE ABILITY TO ADAPT THEIR

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LIFESTYLE AND CRIMINAL ACTIVITY WHEN NEEDED. CAUTION SHOULD BE USED IF TEMPTED TO DRAW ANY DEFINITIVE CONCLUSIONS ABOUT THE "TRANSIENT GROUPS" AND THE "TRANSIENT CRIMINALS".

COMMON CULTURAL DENOMINATORS

- MAINTAIN A "CLOSED SOCIETY" BY LIMITING THEIR SOCIAL CONTACT WITH PERSONS OUTSIDE OF THEIR DISTINCT GROUP
- MARRY WITHIN THEIR OWN GROUP, SOME MARRIAGES ARRANGED
- DISTINCT LANGUAGE UNIQUE TO EACH GROUP
- PATRIARCHAL FAMILY STRUCTURE (FATHER IN CONTROL)
- LIMITED USE OF PUBLIC SCHOOLS

ADDITIONAL COMMON DENOMINATORS FOR "CRIMINAL ELEMENT"

- MANY INVESTIGATORS BELIEVE THAT THE "CRIMINAL ELEMENT" MAKE UP A LARGE PERCENTAGE OF THE RESPECTIVE GROUPS
- MAINTAIN NOMADIC LIFESTYLE — WORLDWIDE NETWORK
- TARGET THE ELDERLY

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- MASTERY OF NUMEROUS THEFT TYPE CRIMES
- MASTERY OF CONFIDENCE SCAMS, INSURANCE & CREDIT FRAUDS
- FEDERAL AND STATE TAX EVASION
- LOCAL BUSINESS LICENSES NOT OBTAINED, OR ARE FRAUDULENT
- PRACTICE HIGH PRESSURE SALES TACTICS
- MAKE EXTENSIVE USE OF ALIASES AND FALSE DOCUMENTS
- FREQUENT CASINOS AND RACE BETTING TRACKS
- CRIMINAL EXPERTISE PASSED DOWN AMONG FAMILY MEMBERS

MAJOR "TRANSIENT GROUP" DESCRIPTIONS

AMERICAN GYPSIES

- THE MAJORITY MIGRATED TO AMERICA AROUND 1900. THEY ARE GENERALLY SECOND OR THIRD GENERATION AMERICANS, BUT MOST STILL SPEAK IN ACCENTED ENGLISH AND ROMANESE (GYPSY LANGUAGE).
- THEIR PHYSICAL COMPLEXION CAN VARY FROM DARK TO LIGHT.

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- THE FEMALES OF THE "CRIMINAL ELEMENT" ARE GENERALLY KNOWN FOR THEIR INVOLVEMENT IN FORTUNE TELLING, SHOPLIFTING, AND INSURANCE FRAUDS. THE MALES ARE ACTIVE IN HOME REPAIR SCAMS, IMPOSTOR BURGLARIES, VEHICLE REPAIR/SALE SCAMS, AND METAL THEFTS.
- THE "CRIMINAL ELEMENT" CAN EASILY BE MISTAKEN FOR THE "CRIMINAL ELEMENT" WITHIN THE "ENGLISH TRAVELERS" BECAUSE OF THEIR INVOLVEMENT WITH SIMILAR TYPE FRAUDS AND HAVING SOME SIMILAR SURNAMES.

COMMON AMERICAN GYPSY SURNAMES:

ADAMS, BIMBO, COOPER, COSTA, COSTELLO, DELMARO, DEMITRO, ELI, ELY, EVANS, FRANK, GEORGE, GUY, HOUSTON, JOHN, JOHNSON, KASLOV, LEE, MARKS, MARTIN, MASON, METLO, MIGUEL, MILLER, MITCHELL, MITLO, NICHOLAS, NICHOLOS, REED, RISTICH, RISTICK, SMALL, STANLEY, STERIO, STEVENS, STEVENSON, TAN, TENE, THOMPSON, ULRICH, UNAWICH, UNICH, UWANAVICH, UWANAWICH, WANKO, WASSO, WILLIAMS, YOANIS, YONIS, ZIKO.

EUROPEAN GYPSIES

- MOST ARE FROM EASTERN EUROPE, PRIMARILY FORMER IRON CURTAIN COUNTRIES (HUNGARY, POLAND, YUGOSLAVIA, ETC.)

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- RELATIVELY NEW TO NORTH AMERICA (LAST 30 YEARS)
- SPEAK BROKEN ENGLISH OR COMBINATION OF ROMANESE (GYPSY LANGUAGE) AND VARIOUS EUROPEAN LANGUAGES
- OFTEN DESCRIBED AS HISPANICS OR NATIVES OF INDIA
- SHORTER THAN THE ANGLO POPULATION WITH DARK HAIR AND EYES
- MANY WOMEN WEAR LONG SKIRTS WITH HAIR IN BUN OR BRAID
- "CRIMINAL ELEMENT" GENERALLY GROUPED BY CRIME SPECIALTY:
  - HOME INVASION THEFTS
  - STORE DIVERSION THEFTS
- MAKE USE OF "BOOSTER APRONS" TO CONCEAL STOLEN PROPERTY
- STATUS WITH IMMIGRATION QUESTIONABLE

HOME INVASION THEFTS

THERE IS A GROUP WITHIN THE EUROPEAN GYPSIES THAT SPECIALIZES IN COMMITTING RESIDENTIAL OR "HOME INVASION" BURGLARIES. A LARGE PERCENTAGE OF THESE BURGLARS

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APPEAR TO BE OF POLISH DESCENT. THEY ARE GENERALLY BASED IN NEW YORK, CHICAGO, AND OTTAWA, CANADA, WITH SMALLER GROUPS IN VIRGINIA, FLORIDA, AND NEW JERSEY. THESE CRIMINALS WILL TRAVEL IN FOUR DOOR PRIVATELY OWNED OR RENTAL VEHICLES, AND USUALLY WORK IN TEAMS OF THREE OR FOUR (MALE OPERATOR, FEMALE PASSENGERS). THE FEMALES WILL ENTER THE VICTIM'S RESIDENCE FOR THE PURPOSE OF STEALING MONEY, JEWELRY, OR SILVER. IF CONFRONTED, STATEMENTS SUCH AS "LOOKING FOR MY LOST DOG" OR "LOOKING FOR A PLACE TO RENT" ARE USED TO JUSTIFY ENTRY INTO THE RESIDENCE, AND TO DISTRACT HOMEOWNER.

COMMON HOME INVASION SUSPECT SURNAMES:

ANDRZEJ, BARBINSKI, BARCZEWSKA, BOGDANOWICZ, BRZEZINSKA, CIECIERSKA, DABROWSKA, DANIS, DEBOWSKA, DOLINSKA, DOMBROWSKI, DYTLOW, FORGAC, FYDRICH, GLOWACKA, GOWMAN, GRABOWSKA, HORVATH, JAWORSKA, KAMINSKA, KOLOMPAR, KOWALSKA, KWIATKOWSKI, LAKATOSZ, MAJEWSKA, MALINOWSKA, NOWAK, PACKOWSKA, PARCZEWSKA, PAWLOWSKA, PIHIK, PIENCZYKOWSKI, PLOWA, RAPACINSKA, SABO, SAK, STOBA, STOJKA, STRUPEK, TELESZ, WACKOWSKA, WLOCH, YAWORSKI, ZIELINSKI.

(NAMES ENDING WITH "SKA" ARE FEMININE, "SKI" ARE MASCULINE)

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STORE DIVERSION THEFTS

ANOTHER CRIMINAL GROUP, WITHIN THE EUROPEAN GYPSIES, SPECIALIZES IN STORE DIVERSION THEFTS. A LARGE PERCENTAGE OF THESE CRIMINALS APPEAR TO BE OF YUGOSLAVIAN DESCENT, AND ARE MOSTLY BASED OUTSIDE OF CHICAGO, IN LINCOLNWOOD AND SKOKIE, ILLINOIS. THEY WILL TRAVEL THE COUNTRY IN LARGE AMERICAN MANUFACTURED VEHICLES WHICH ARE PERSONALLY OWNED OR RENTED. COMMERCIAL OR RETAIL BUSINESSES LOCATED NEAR A MAJOR HIGHWAY ARE GENERALLY TARGETED. A GROUP OF BOTH MALES AND FEMALES WILL ENTER THE BUSINESS AND ATTEMPT TO DISTRACT THE BUSINESS PERSONNEL. MONEY AND/OR PROPERTY IS THEN TAKEN FROM THE BUSINESS OFFICE OR SAFE. IF THE THEFT INITIALLY GOES UNNOTICED, IT MAY MISTAKENLY BE REPORTED AS AN "INTERNAL THEFT", THEREFORE BRINGING SUSPICION ONTO THE BUSINESS EMPLOYEES.

COMMON STORE DIVERSION SUSPECT SURNAMES:

ARMANOV, BOGDANOV, DJENIKOV, DOBOBROV, GINISOV, IVANOV, JOSIPOVIC, KOMAROV, KONOVALOV, KONSTANTINOV, KOROTKOV, KUZNIKOV, MARTINOV, MORO, PAVLOV, PETROV, PETROVIC, RODIEKOV, SADRINOVIC, SAROV.

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TRAVELERS

- FIRST CAME TO THE UNITED STATES IN LARGE NUMBERS DURING THE ENGLISH MIGRATION OF THE 1700'S, AND AGAIN DURING THE IRISH POTATO FAMINE IN THE 1840'S
- HAVE TYPICALLY AMERICAN CAUCASIAN APPEARANCE, MOST WITH LIGHT COMPLEXION
- MAY PUT THEIR CHILDREN IN PRIVATE SCHOOLS
- USE TRAVEL TRAILER PARKS, MOBILE HOME PARKS, HOTELS, MOTELS, SHORT TERM APARTMENTS WITH RENTED FURNITURE, AND THE LOCAL ESTABLISHED TRAVELERS' HOMES
- THE MALE MEMBERS OF THE "CRIMINAL ELEMENT" ARE KNOWN FOR THEIR INVOLVEMENT IN HOME REPAIR SCAMS, IMPOSTOR BURGLARIES, SALE SCAMS, AND INSURANCE/CREDIT FRAUDS. THE FEMALE MEMBERS ENGAGE IN SHOPLIFTING, AND ASSIST THE MALES WITH THE INSURANCE AND CREDIT SCAMS.

THE "TRAVELERS" ARE WELL INCORPORATED INTO MAINSTREAM SOCIETY. THEY HAVE FORMED VARIOUS BUSINESSES AND SERVICES THAT CAN BE USED TO LEGITIMIZE AND SUPPORT THOSE INVOLVED IN CRIMINAL ACTIVITIES.

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- TRAILER PARK OWNERSHIP
- HOUSE TRAILER DISTRIBUTORS
- PAINT, "SEALER", ASPHALT, AND TOOL DISTRIBUTORS
- ESTABLISH CHURCHES
  - ORDAIN OWN PASTORS
  - PRINT OWN "RELIGIOUS MATERIAL"
  - PURPOSE:
    - PROVIDE MEETING PLACE (?)
    - TAX SHELTER (?)
    - MONEY LAUNDERING (?)
- MAIL DROPS AND TELEPHONE MESSAGE SERVICES ARE USED TO DISTANCE THE CRIMINALS FROM THEIR ACTIVITIES
- "NON-TRAVELERS" MAY BE USED AS LABORERS, CHECK CASHING, CONTRACT COMPLETION, ETC., TO HINDER IDENTIFICATION OF CRIMINAL GROUP
- BUSINESSES CAN ACT AS CREDIT OR EMPLOYMENT VERIFICATION FOR "TRAVELERS" INVOLVED IN CREDIT SCAMS

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ENGLISH TRAVELERS

THE ENGLISH TRAVELERS ARE BASED IN NUMEROUS LOCATIONS NATIONWIDE. THE "CRIMINAL ELEMENT" WITHIN THIS GROUP IS BEST KNOWN FOR ASPHALT PAVING SCAMS AND SEALING SCAMS. THEY ARE ALSO INVOLVED IN OTHER HOME REPAIR SCAMS, IMPOSTOR BURGLARIES, AND SALE SCAMS. THEY ARE EASILY MISTAKEN FOR THE "CRIMINAL ELEMENT" WITHIN THE "AMERICAN GYPSIES" BECAUSE OF THEIR INVOLVEMENT WITH SIMILAR TYPE FRAUDS AND HAVING SOME SIMILAR SURNAMES.

COMMON ENGLISH TRAVELER SURNAMES:

BAKER, BOSWELL, BREWER, BROADWAY, CARTER, COOPER, DAVIS, DILSAVER, HARRISON, HICKS, JOHNSTON, LOVELL, MULLEN, OAKS, RENNER, SARTIN, SMALL, SMITH, SPARROW, STANLEY, THOMPSON, WELLS, WILLIAMS, WRIGHT.

IRISH TRAVELERS

THE IRISH TRAVELERS ARE BASED IN VARIOUS LOCATIONS ACROSS THE UNITED STATES, THE MOST FAMOUS BEING A SECTION OF NORTH AUGUSTA, SOUTH CAROLINA, CALLED MURPHY VILLAGE. THE "CRIMINAL ELEMENT" WITHIN THIS GROUP IS BEST KNOWN FOR BARN OR HOUSE PAINTING SCAMS AND TOOL SALE SCAMS. THEY ARE ALSO INVOLVED IN ROOF COATING SCAMS AND LIGHTNING ROD SCAMS.

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COMMON IRISH TRAVELER SURNAMES:

BURKE, CARROLL, CORRIGAN, COSTELLO, DALEY, DONAHUE, DOUGHERTY, GORMAN, HANNAGAN, MACK, MCDONALD, MCNALLY, MULHOLLAND, NORMILE, O'HARA, RAFFERTY, RILEY, SHERLOCK, WHITE.

SCOTTISH TRAVELERS

THE SCOTTISH TRAVELERS ARE BASED IN NUMEROUS LOCATIONS NATIONWIDE. THE "CRIMINAL ELEMENT" WITHIN THIS GROUP IS BEST KNOWN FOR HOME REPAIR SCAMS AND SALE SCAMS.

COMMON SCOTTISH TRAVELER SURNAMES:

BISHOP, BURNS, CROLL, DAVIS, DOCHERTY, EVANS, FORREST, GORDON, HALLIDAY, HOLDEN, JOHNSON, JOHNSTON, KEITH, KELBIE, MARSHALL, MARTIN, MCDONALD, MCGAVIN, MCKENZIE, MCMILLAN, PARKER, PARKS, REID, STEWART, SWEET, THOMPSON, TOWNSLEY, WATSON, WHITE, WILLIAMSON, WILSON, WOODS.

"TRANSIENT CRIMINALS" WORK VEHICLE

MANY "TRANSIENT CRIMES" GO UNNOTICED BY LAW ENFORCEMENT UNTIL A PATTERN IS IDENTIFIED THROUGH CRIME REPORTS. THE TIME DELAY BETWEEN THE CRIMINAL REPORT AND ANALYSIS, USUALLY RESULTS IN THE "TRANSIENT

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CRIMINAL" HAVING MOVED ON TO OTHER JURISDICTIONS. RECOGNITION OF THE WORK VEHICLE WILL ALERT LAW ENFORCEMENT TO THE "TRANSIENT CRIMINAL'S" PRESENCE, HOPEFULLY BEFORE CRIMES ARE COMMITTED.

THE WORK VEHICLES MAY BE OBSERVED DRIVING ON THE ROADWAY OR PARKED AT HOTELS, MOTELS, TRAVEL TRAILER PARKS, MOBILE HOME PARKS, SHORT TERM APARTMENTS, AND LOCAL ASSOCIATES' HOMES. SOME BASIC VEHICLE INDICATORS:

- MAGNETIC SIGNS DEPICTING VARIOUS BUSINESSES OR SERVICES
- OUT-OF-STATE REGISTRATION PLATES, OR RECENTLY REGISTERED IN-STATE REGISTRATION PLATES
- VEHICLES TITLED TO A FEMALE OR TO A PERSON NOT INVOLVED, WHICH HINDERS LAWFUL SEIZURE OF VEHICLE
- RELIGIOUS PARAPHERNALIA SUCH AS BUMPER STICKERS, DASHBOARD STATUES, BIBLES, ETC.
- AFTER MARKET WINDOW TINT (DARKER THAN FACTORY SPECS)
- BOX TRAILERS USED TO CARRY PERSONAL POSSESSIONS

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ADDITIONAL INDICATORS IN HOME REPAIR SCAMS:

- USUALLY NEW OR GOOD CONDITION PICKUP TRUCK OR VAN
- PAINT OR SEALANT SPRAY EQUIPMENT IN VEHICLE
- PICKUP TRUCK BED COVER TO CONCEAL SPRAY EQUIPMENT
- PICKUP TRUCK BED CAP WITH SIDE LIFT WINDOWS HAVING TWIST LOCK HANDLES
- STAKE BODY TRUCKS USED TO CARRY 5 GALLON SIZE PAINT CONTAINERS AND SPRAY EQUIPMENT

ADDITIONAL INDICATORS IN ASPHALT PAVING SCAMS:

- USUALLY NEW OR GOOD CONDITION PICKUP TRUCK OR VAN THAT IS USED TO SCOUT OUT JOBS
- DUMP TRUCK PULLING FLATBED TRAILER, WITH ASPHALT SPREADER AND ASPHALT ROLLER

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ADDITIONAL INDICATORS IN METAL THEFT SCAMS:

- PICKUP TRUCK OR SUBURBAN STYLE VEHICLE PULLING STAKE BODY FLATBED OR BOX TRAILER LOADED WITH SCRAP METAL

UNUSUAL SIMILARITIES NOTED AMONG SOME "*TRAVELER*" WORK VEHICLES:

- PICKUP TRUCKS HAVING A CHROME FUEL CAP ACCESS DOOR INSTEAD OF THE USUAL PAINTED DOOR — POSSIBLY SCOTTISH
- YELLOW COLORED LIGHT ON VEHICLE ROOF
- VEHICLE DEALERSHIP DECAL REMOVED
- USE OF STEERING WHEEL LOCK — "THE CLUB"
- SMALL LEATHER HORSE SADDLE IN CAB OF TRUCK
- SMALL BABY BOOTIES HANGING FROM INSIDE MIRROR

SOME COMMON FRAUDS ASSOCIATED WITH THE THREE MAJOR GROUPS

LISTED GROUPS ARE RECOMMENDATION FOR INITIAL SUSPECT SEARCH

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FORTUNE TELLING SCAM
(AMERICAN GYPSY)

- "SLEIGHT OF HAND" TRICKS USED TO SUGGEST THAT THE PALM READER HAS "SPECIAL POWERS"
- VICTIM CONVINCED OF HAVING BEEN "CURSED"
- VICTIM PROVIDES MONEY OR MATERIAL GOODS FOR THE REMOVAL OF THE "CURSE"

SWEETHEART SCAM
(AMERICAN GYPSY)

- BEFRIEND VICTIM
- MANIPULATE VICTIM TO GAIN POSSESSION OF PROPERTY OR MONEY

INSURANCE AND CREDIT FRAUD
(ALL GROUPS)

- STAGED VEHICLE ACCIDENTS
- "SLIP & FALL" — FAKED INJURY, THREATEN CIVIL SUIT
- FALSIFIED INSURANCE APPLICATIONS — HEALTH POLICIES

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- FALSIFIED INSURANCE CLAIMS — BURGLARY, VEHICLE THEFT
- FALSIFIED CREDIT APPLICATIONS
- WELFARE FRAUD

STORE DIVERSION THEFTS
(EUROPEAN-YUGOSLAVIAN GYPSY)

- GROUP ENTERS RETAIL OR COMMERCIAL ESTABLISHMENT
- DISTRACT EMPLOYEES AND CUSTOMERS
- MONEY STOLEN FROM BUSINESS OFFICE OR SAFE
- OFTEN THOUGHT TO BE AN INTERNAL THEFT BY EMPLOYEE

SHOPLIFTING
(ALL GROUPS)

- MERCHANDISE STOLEN FROM RETAIL ESTABLISHMENT
- COMMITTED AS A GROUP EFFORT OR INDIVIDUALLY

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REFUND OR RETURN SCAMS
(AMERICAN GYPSY, TRAVELERS)

- SHOPLIFT MERCHANDISE
- RETURN MERCHANDISE FOR REFUND OR EXCHANGE

TILL TAP OR SHORT CHANGE THEFTS
(ALL GYPSY)

- APPROACH CASH REGISTER FOR SUPPOSED PURCHASE
- PRETEND CONFUSION ABOUT CURRENCY
- PALM MONEY FROM CASH DRAWER, OR SHORT PAYMENT

ASPHALT PAVING SCAM
(AMERICAN GYPSY, ENGLISH TRAVELER)

- PICKUP OR VAN USED TO SCOUT AREA
- PLOY: "LEFTOVER ASPHALT FROM ANOTHER JOB"
- BARGAIN PRICE QUOTED
- NO BUSINESS CONTRACT, OR VAGUE CONTRACT (NO DETAILS)

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- DUMP TRUCK WITH TRAILER & EQUIPMENT CALLED IN BY "CB"
- POOR-GRADE MATERIALS USED
- LITTLE OR NO GROUND SURFACE PREPARATION
- POOR QUALITY WORK-ROILED OUT TOO THIN
- EXTORT HIGHER PAYMENT

DRIVEWAY OR ROOF SEALING, PAINTING, EXTERMINATOR SCAMS
(AMERICAN GYPSY, TRAVELERS)

- OFFER "SPRAY" PROTECTION AT BARGAIN PRICE
- USE BOGUS OR DILUTED MATERIALS: MIX WITH GASOLINE OR KEROSENE
- EXTORT HIGHER PAYMENT

LIGHTNING ROD SALES OR REPAIR SCAMS
(TRAVELERS)

- OFFER FREE INSPECTION
- FIND OR CAUSE DAMAGE
- CHARGE TO SUPPOSEDLY "REPAIR" PROBLEM

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UTILITY IMPOSTOR BURGLARY
(AMERICAN GYPSY, TRAVELERS)

- POSE AS AN EMPLOYEE FROM THE GAS, ELECTRIC, WATER, OR CABLE COMPANY
- STATE THE NEED TO CHECK SYSTEM OR METERS
- OFFER CASH REFUND USING LARGE MONEY DENOMINATION TO LOCATE WHERE CURRENCY IS KEPT
- CHARGE A FEE TO CORRECT A SUPPOSED "PROBLEM", AND/OR COMMIT THEFT

HOME INVASION BURGLARY
(EUROPEAN-POLISH GYPSY)

- ENTRY UNDETECTED OR WITH SIMPLE DISTRACTION
    - NEED DRINK OF WATER, NEED USE OF PHONE OR BATHROOM, LOOKING FOR LOST PET OR RENTAL PROPERTY
- THEFT OF CASH, JEWELRY, SILVER
- CAN BE COMBINED WITH ANY FRAUD AT RESIDENCE

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VEHICLE REPAIR AND SALES SCAMS
(AMERICAN GYPSY)

- POOR QUALITY CURB SIDE REPAIRS, EXTORT HIGH PAYMENT
- ODOMETER ROLLBACKS
- MULTIPLE SALE OF THE SAME VEHICLE, "OPEN TITLE"

METAL THEFTS
(AMERICAN GYPSY)

- COMMERCIAL BUSINESS AND FOR DONATION OF SCRAP METAL TO BENEFIT THE "AMERICAN INDIANS"
- QUALITY METALS AND ITEMS STOLEN WHILE SCRAP IS LOADED

MACHINERY REPAIR OR REBUILD SCAM
(AMERICAN GYPSY)

- BUSINESS GIVEN BARGAIN PRICE QUOTE
- EXTORT HIGHER PAYMENT TO GET MACHINERY RETURNED

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TOOL SALE SCAM
(IRISH TRAVELER)

- IRISH TRAVELERS KNOWN AS "JACKERS"
- SELL INFERIOR GRADE EQUIPMENT (HYDRAULIC HOIST, HYDRAULIC PRESS, DRILL PRESS, BAND SAW, ETC.)
- WARRANTIES ARE NON-EXISTENT, MISREPRESENT VALUE
- SOME EQUIPMENT BRAND NAMES: CAROLINA TOOL & EQUIPMENT, ELITE MANUFACTURING, HI-QUALITY EQUIPMENT, IMPALA EQUIPMENT, RAMCO, SHOP MASTER EQUIPMENT, TOOL MASTER
- NON-TRAVELER GROUP HAS ALSO TAKEN UP THIS SCAM

HOUSE TRAILER SALE SCAM
(TRAVELERS)

- PURCHASED FROM MANUFACTURER IN ELKHART, INDIANA
- POOR QUALITY MATERIALS
- DOCUMENTS WHICH MISREPRESENT VALUE
- FAIL TO REGISTER — STILL TITLED TO MANUFACTURER SO IT CAN BE SOLD AS "NEW"

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LANDSCAPING SCAMS
(AMERICAN GYPSY, TRAVELERS)

- OFFER TO PRUNE TREES
- CHARGE PER LIMB, NOT PER TREE AS INITIALLY IMPLIED
- CUTTINGS "BALLED" WITH SOIL, QUICKLY SOLD AS SEEDLINGS

OTHER "TRANSIENT GROUPS" AND THEIR FRAUDS

THERE ARE OTHER "TRANSIENT CRIMINALS" WHO DO NOT FIT INTO THE AFOREMENTIONED MAJOR "TRANSIENT GROUPS". THESE CRIMINALS ARE MEMBERS OF SMALL GROUPS WHICH SPECIALIZE IN PARTICULAR TYPES OF CRIME. THE CRIME TYPE IS USUALLY THE ONLY LINKING FACTOR AMONG THE GROUP MEMBERS, WHO CAN BE OF EITHER SEX AND OF VARIED ETHNIC BACKGROUND. THE CRIMES COMMITTED ARE COMMONLY REFERRED TO AS CONFIDENCE SCAMS OR CON GAMES, AND GENERALLY REQUIRE SOME LEVEL OF PLANNING.

BANK EXAMINER SCAM

- TELEPHONE OR PERSONAL CONTACT MADE WITH VICTIM BY SUSPECT POSING AS "BANK OFFICIAL" OR "POLICE OFFICER"

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- VICTIM ASKED TO MAKE MONEY WITHDRAWAL FROM BANK FOR PURPOSE OF CATCHING A DISHONEST BANK EMPLOYEE

- THE WITHDRAWN MONEY IS TURNED OVER TO THE FAKE "BANK OFFICIAL" OR "POLICE OFFICER" AS SUPPOSED EVIDENCE

HANDKERCHIEF SWITCH

- VICTIM APPROACH BY FIRST SUSPECT WHO IS ACTING LIKE A "FOOL" OR FOREIGNER WITH A LARGE SUM OF MONEY

- SECOND SUSPECT ARRIVES AND VICTIM IS PERSUADED TO MAKE A BANK ACCOUNT WITHDRAWAL TO SHOW FIRST SUSPECT HOW BANKS WORK

- ALL MONEY IS PLACED IN A HANDKERCHIEF OR BAG, BUT A SWITCH OCCURS BEFORE VICTIM IS ALLOWED TO TAKE CONTROL "FOR SAFE KEEPING"

- VICTIM LATER FINDS CUT UP NEWSPAPER IN THE HANDKERCHIEF OR BAG

PIGEON DROP SCAM

- VICTIM IS BEFRIENDED BY ONE SUSPECT

- SECOND SUSPECT ARRIVES CLAIMING TO HAVE FOUND MONEY

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- PLAN MADE TO SPLIT MONEY AFTER EVERYONE PRODUCES SOME OF THEIR OWN MONEY, SHOWING "GOOD FAITH"

- ALL "GOOD FAITH" MONEY IS PLACED INTO AN ENVELOPE AND SUPPOSEDLY TAKEN TO A "BOSS" OR "LAWYER" IN A NEARBY OFFICE

- VICTIM IS UNABLE TO LOCATED THE "BOSS" OR "LAWYER"

BADGE COME BACK SCAM

- CAN BE USED AFTER ANY CRIMINAL ACTIVITY, BUT PRIMARILY SEEN AFTER THE HANDKERCHIEF SWITCH AND PIGEON DROP

- VICTIM OF PREVIOUS CRIME IS APPROACHED BY SUSPECT POSING AS A "POLICE OFFICER"

- VICTIM IS CONVINCED THAT THE "POLICE" ARE AWARE THAT THERE WAS A CRIME, AND THAT IT IS BEING INVESTIGATED

- VICTIM IS PERSUADED TO MAKE MULTIBILE BANK ACCOUNT WITHDRAWALS TO ASSIST IN THE "INVESTIGATION"

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CONTRACTOR REGISTRATION PROGRAM

I. *HISTORY*

The need for a contractor registration process/disaster relief program first made itself apparent following the tornado that struck the city of Xenia is the mid-1970's. Out-of-state and itinerate home improvement contractors flooded the area preying on consumers that were still in a state of shock. Literally hundreds of contractors received up-front moneys for clean-up and repairs and then disappeared without performing the agreed work.

From an enforcement standpoint, attempting to locate the culprits was a nightmare. With no paperwork generated by the transactions, we were often left with only general physical descriptions of the contractors, or, in one case, "I think he was driving a white pickup truck." Needless to say, we were not very successful in pursuing resolutions to the hundreds of consumer complaints that were filed.

When the tornado hit the village of Cardington in the late 1970's the attorney general's office proposed the first contractor registration program to be implemented in Ohio.

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After the village fathers had issued a resolution requiring contractors to register, the Consumer Protection Section administered the registration process on behalf of the local government. Localized damage, the small size of the community, and brief national media exposure may have been contributing factors, but the result was very few rip-offs. Those complaints that did result were more readily handled due to our ability to identify the contractors involved.

In the late spring of 1985, a series of tornadoes struck a heavily populated area of northeastern Ohio and Pennsylvania. The cities of Niles and Newton Falls, as well as the unincorporated area of Liberty Township sustained millions of dollars worth of damage. Thousand of individual consumers were effected. The national media ran with the story and within days hundreds of contractors from as far away as Texas and Mississippi had poured into the area.

The attorney general sent his investigators to propose and assist in implementing the registration procedure. The local officials, already aware of the need, met our proposal with open arms. Three separate registration centers were established within the 30 mile area and registration was started within 24 hours of our arrival.

In the ensuing two week period over 600 contractors were registered. It has been estimated that at least that many more fled the area into Pennsylvania after learning of the mandate to be registered.

The Consumer Protection Section received only two consumer complaints in the months following the disaster.

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One of the complainants sued the contractor and won a judgment for damages in the amount of $12,000.00.

During the tornadoes in Southwestern Ohio (Harrison and Fairfield) and the flood in Shadyside investigators from the Consumer Protection Section were on the scene within hours and stayed until local officials were able to assume control of the registration process, a total of almost 30 days in the field. Consumer protection personnel continued to provide assistance with the verification process for weeks after departing the areas. Recent tornadoes in Montgomery City and Blue Ash prompted activation of a registration team. The team registered over 500 contractors in five days. Our attempts to register contractors in the aftermath of disasters have been tremendously successful.

II. *PURPOSE AND GOALS*

Our primary purpose is to assist local government and its citizens in what could be their most difficult and demanding hour. We offer our expertise, manpower, and resources in an attempt to protect the consumer from potential damage and free local officials to tend to other matters.

Another first priority goal is to better educate the consumer so that they may be better able to protect themselves. This is accomplished by way of peppering the effected area with flyers that outline consumer tips to be used when contracting for repairs, saturating the area with media announcements, and making Consumer Protection personnel available to the consumer at locations throughout the area.

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Another goal is to make it inconvenient for the transient contractor to stay in the area. When he learns that he must register and wait for the verification to be completed it is our hope that the unscrupulous contractor will decide that it is not worth his time or effort to stay.

If he does stay in the area, the registration will, hopefully, provide sufficient information so as to be able to locate the contractor in the event of a problem.

III. *REQUIREMENTS*

The Attorney General does not have the authority to order contractor registration, that power lies with local government.

In a situation where the disaster strikes a city we suggest that building codes already on the books be amended to require registration prior to work beginning. We also suggest a criminal penalty for non-compliance, this will allow local law enforcement to remove the non-compliant contractor off the job and into custody. In villages or unincorporated areas of the county we recommend that the commissioners pass an emergency resolution requiring that contractors register. In any case we brief local law enforcement on the use of the Home Solicitation Sales Act, Ohio Revised Code 1345.21, to enable arrest on a misdemeanor charge.

The Home Solicitation Sales Act (ORC 1345.21) specifies that if the supplier approaches the consumer and contracts for work at a price greater than $25.00 there must be a completed contract and a verbal and written three day right to cancel. Work cannot begin in the three days unless

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the consumer provides a written, dated statement specifying the emergency and expressly waiving his right to cancel. Violation of this section is a minor misdemeanor.

IV. *WHAT WE DO*

At the request/mandate of local government we will administer the registration procedure. We will provide the manpower, forms, and resources needed to *verify* the information presented by the contractor. We will *not* approve or disapprove of any contractor.

For example, if a contractor discloses that he is from out of state, has been found guilty of larceny by trick, and refuses to provide any other information, then, if his assertions are true, we would consider his registration verified.

Once the contractor has submitted his Business Registration Form we will transport the information to Columbus and, when and if verified, return it to the disaster area. At this point the local officials can use the information to decide whether or not to issue permits, and consumers are urged to review the information before hiring the contractor.

Unfortunately, natural disasters provide an excellent opportunity for consumer fraud gimmicks. It is impossible to list all the scams that might be developed. However, following are some typical SCAMS that might follow a disaster:

*TELEPHONE SALES OF "DISASTER RELIEF KITS"

*FICTITIOUS FUNDRAISING FOR DISASTER VICTIMS

*PRIZE PROMOTION SCHEMES WHERE FUNDS WILL SUPPOSEDLY GO TO VICTIMS

*PEOPLE FALSELY CLAIMING THEY CAN HELP PROCESS DISASTER RELIEF-FOR A FEE

*ADVANCE FEE LOANS FOR THOSE IN NEED OF MONEY TO BEGIN REPAIRS ON HOMES

*DOOR-TO-DOOR HOME REPAIR SCAMS

*PHONEY INSPECTORS TYPICALLY REALLY SELLING SOMETHING SUCH AS WATER FILTERING SYSTEMS

*JOB SCAMS - CHARGING FOR INFORMATION ON NONEXISTENT CLEANUP OR REPAIR JOBS

HOW ARE SCAM ARTISTS GOING TO CONTACT YOU?

DOOR-TO-DOOR

NEWSPAPER ADVERTISING

TELEPHONE

IF YOU SUSPECT THAT YOU HAVE BEEN CONTACTED BY ONE OF THESE SCAM ARTISTS CONTACT THE OHIO ATTORNEY GENERAL'S OFFICE IMMEDIATELY.

800-282-0515

OR

614-466-8831

TODAY YOU ARE THE VICTIM

OF A DISASTER-

DON'T BE THE VICTIM

OF A $CAM TOMORROW!!

FOR MORE INFORMATION
CONTACT THE OHIO
ATTORNEY GENERAL'S REPRESENTATIVE
IN THE NEAREST
DISASTER RECOVERY CENTER

OR CALL

1-800-282-0515



HOW TO AVOID TELEMARKETING FRAUD

If a salesperson calls and requires that you pay money to win or be eligible to win a prize, it **is a scam.** Telemarketers are violating Ohio law when they contact you and state that you have won or will win a prize (or a sum of money) *if* you pay them money . Telemarketers often characterize the fee as gift tax, or a processing, contest, or shipping and handling fee. Regardless of how the fee is characterized, **it is illegal for you to be required to pay to win or be eligible to win a prize.**

To protect yourself, please remember:

- $ ***Do not*** give checking or savings account information to anyone over the phone.
- $ ***Do not*** give credit card numbers over the phone unless you know the organization is reputable.
- $ ***Do not*** assume an organization is legitimate because of impressive looking brochures, testimonials, or official sounding names.
- $ ***Be wary*** of high pressure sales tactics such as prizes, awards and deals that are only available if you "act right away."
- $ ***Request*** written information from any organization soliciting you over the phone and have someone you trust review it before you act.

If in doubt, hang up the phone! Don't worry about being polite to those seeking to tie up your time and steal your life savings.

If you have any questions about a telemarketing organization, contact our toll-free hotline at

1-800-282-0515.

Attorney General
Betty D. Montgomery

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Attorney General
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Washington, DC 20036



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APPENDIX I(11) — DEFENDANTS' EXHIBIT 40 (STATISTICAL STUDY PREPARED FOR OHIO ASSISTANT ATTORNEY GENERAL HELEN MAC MURRAY DATED JULY 14, 1999)

[Pages 296a-311a submitted as a Lodging]

APPENDIX J — EXCERPTS FROM TRANSCRIPT OF TESTIMONY OF ROBERT CIRANKO DATED JULY 27, 1999

[commencing at page 17]

* * *

Q. Mr. Ciranko, I would like to now turn your attention to the Watchtower Bible and Tract Society. Could you please explain to the Court how that functions?

A. The Watchtower Bible and Tract Society is strictly a legal entity. It was formed for the purpose of holding title to property and being able to publish literature, things that the laws of the country required.

The Watchtower Bible and Tract Society, just as its name indicates, it publishes the Watchtower magazine, the main journal of Jehovah's Witnesses, it publishes Bibles as well as tracts and other publications that are used for Bible education the world over.

The Watchtower Society also organizes conventions for Jehovah's Witnesses. It also has a hand in the building of kingdom halls, our places of worship, and it cares for other matters that relate to the needs of the [18] congregations.

Q. How does the Watchtower Bible and Tract Society, sir, disseminate the information it publishes?

A. The materials that we publish are distributed through the congregations by Jehovah's Witnesses, and I should say that all of Jehovah's Witnesses participate in this work.

Q. When you say all of Jehovah's Witnesses participate in this work, could you explain to the Court what you mean?

A. Every one of Jehovah's Witnesses who is a baptized member is considered a minister, and it is his privilege and his responsibility to preach the gospel of Christ. If I may have a Bible, I would cite a reference that gives us our commission to do so.

MR. POLIDORO: May I approach and take one of the exhibits?

THE COURT: Hand it to the deputy clerk if you would please.

MR. POLIDORO: The black one, please.

Thank you, judge.

THE WITNESS: Thank you.

BY MR. POLIDORO:

Q. Mr. Ciranko, there is an exhibit number on the front of that Bible. Could you read it into the record please?

A. I can't read it. 6C.

Q. Give me one second, Mr. Ciranko. That's correct, [19] sir.

A. The scripture that I would like to read is Matthew chapter 28, verses 19 and 20, which we take as our commission to

preach. Here Jesus told his followers, and this was shortly before his ascension to heaven, he told them, "Go therefore and make disciples of people of all the nations, baptizing them in the name of the Father and of the Son and of the holy spirit, teaching them to observe all the things I have commanded you."

Now the gospel record is clear as to how that was supposed to be accomplished. Jesus —

THE COURT: What was the cite on that again?

THE WITNESS: Matthew chapter 28, verses 19 and 20.

When Jesus was on earth, he established the pattern as to how that work was to be accomplished. In Matthew chapter 10, it tells us of how Christ chose his twelve apostles and then gave them instructions to perform ministry. In Matthew 10, verse 11, he told them, "Into whatever city or village you enter, search out who in it is deserving, and stay there until you leave. When you are entering into the house, greet the household; and if the house is deserving, let the peace you wish it come upon it."

So Jesus, by example, instituted a house-to-house [20] search for people so as to preach the good news to them. And that's the activity that Jehovah's Witnesses engage in, even as Christ's apostles did after his resurrection to heaven.

If I may have one more reference.

BY MR. POLIDORO:

Q. Please, sir.

A. In Acts, the 20th chapter, verse 20, the Apostle Paul states, "I did not hold back from telling you any of the things that were profitable nor from teaching you publicly and from house to house." That's Acts 20, verse 20.

So we endeavor to follow that pattern.

Q. When you say you endeavor to follow that pattern, what does that mean?

A. Jehovah's Witnesses I think are very well known worldwide because of our house-to-house work. That's how we carry the good news to the people, from house to house.

Q. In your opinion, sir, are there any ample alternatives to the house-to-house ministry?

A. No, we do not feel there is. We feel that we must be on the grass roots level. We feel our message is so important to life that we dare not miss anyone with it, and the only way to find everyone is to go from house to house. Plus that gives the advantage for the householder to be able to see us, meet us, get to know us, see what kind of [21] people we are, and for us to be able to speak with them face to face.

Q. Mr. Ciranko, what is the cost for the Bible-based literature that is left with a householder?

A. There is no charge for our literature. We leave all of our literature free of charge.

Q. How is this work financed?

A. It is funded by Jehovah's Witnesses themselves, by our own members. Our organization is unique in that we do not tithe. We do not pass a collection plate. We do not impose duns or dues upon our members. We do not send out letters of solicitation. We do not solicit for money from house to house.

We have contribution boxes set up at our kingdom halls, and anyone who wishes can put a donation there. No one knows what each one is donating; and if one cannot afford to donate, that's fine. It's done as a free will offering.

Q. What provision would there then be for a householder, someone who is met in the public ministry, to donate to this work?

A. Well, if an individual has an interest in doing that, we feel that it's appropriate to advise them that they can certainly make a donation to Jehovah's Witnesses for our worldwide work. However, that's not the purpose in going [22] from house to house. Our purpose in going from house to house is to talk about the Bible, to offer a study of the Bible with people. Money is the least of our interests.

Q. What then is the cost for the home Bible study?

A. That is free as well. Our entire organization is of a charitable, nonprofit, tax-exempt nature.

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Q. Could you explain to the Court how the local congregations function, Mr. Ciranko?

A. The local congregation is patterned after what we read in the scriptures. The Bible tells us that Jesus Christ is the head of the congregation. So religiously Jehovah's Witnesses are organized in a theocratic fashion, theocratic meaning ruled by the theos, God. We feel our organization is ruled by God. That's where we receive our authority to preach, for instance. In the text that I read from Matthew 28, verse 19 and 20, in the verse just before that, verse 18, Jesus said, "All authority has been given me in heaven and on the earth," and then in his next breath he said go therefore and preach.

In the congregation we have what's called the body of elders, all of the spiritually qualified men in the congregation who meet the scripture outlined in the Bible for that office are appointed as elders. The elders take the lead in the ministry. They teach the congregation from the platform, and they help the members with their personal [23] problems as well.

Q. You are using the expression "take the lead in the ministry." What do you mean?

A. Actually going from house to house. Also the congregation will meet on a regular basis. We conduct what is known as a meeting for field service where an elder will instruct the group for that period of activity, give some suggestions of things they might talk about when they find people at home and help to organize the work for that period.

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Q. How is the preaching work organized within a particular community? How does that function?

A. Every congregation has an assignment of territory, it could be an entire county, parts of counties, and they have definite boundaries assigned to them as to what area of that locality they are to preach in.

Then once they have those boundaries, then locally an individual in a congregation, one of the elders or one of the ministerial servants or deacons, if you will, has a responsibility to take the entire territory and divide it into small workable areas and provide a map for that piece of territory. It's actually produced as a map card to be given to the individual members of the congregation who will go out into that neighborhood to preach.

MR. POLIDORO: Judge, we have previously marked as [24] an exhibit Plaintiff's 4, the Wellsville congregation, and it's a photocopy of a card. Mr. Cantor? If I might, judge, may I submit —

THE COURT: You may.

BY MR. POLIDORO:

Q. Mr. Ciranko, if I may show you what's been previously marked as Plaintiff's Exhibit No. 4, could you describe to the Court what that is?

A. It says territory map card, the locality of Stratton, Empire City, and it has shaded in green the area that is to be worked

along Highway 7, and there's a note on the card that says, "Do not pass the railroad tracks in Empire."

Q. Now in your experience, sir, how often would a particular territory, reflected by that territory card, be worked over the course of a year?

A. That varies quite a bit from congregation to congregation, depending on how many members there are and how large their territory is. As a general rule, I would say in this country that if we could cover all of our territory once a year, we would be very happy with that.

Q. Is there a provision congregationally with respect to respecting the wishes of a householder who does not want to receive any further house-to-house calls by Jehovah's Witnesses?

A. Yes, sir. It's commonly referred to as the [25] do-not-call arrangement. If I am going from house to house and I meet an individual who is adamant that they do not want Jehovah's Witnesses to call on them any longer, I will endeavor to get their name, and I will certainly write that down as well as their address; and I will turn that in at the kingdom hall to the elder who is in charge of the territory. He will write up a note of that, put it inside the map card so that the next person who is assigned to work this territory will know not to call there, and those wishes are respected.

Q. Is there any provision to update that do-not-call information?

A. Yes, at the discretion of the elders, when they feel it's appropriate, no more often than once a year, perhaps quite a bit less than that, an elder will go back to that individual for two reasons: Number one, to make sure the same person is still living there because people tend to move; and number two, to make sure it is still their adamant wish. If it is, he will not pursue the matter, will not try to preach to the person, will just take the information, update the records.

Q. Thank you, sir. Could you explain to the Court what the governing body is?

A. As I mentioned earlier, we feel our organization is theocratic in structure, God ruled, Christ being the head [26] of the congregation. In the first century Jesus told his followers that he was going to delegate some of his authority to what he termed the faithful and discrete slave, anointed disciples of his on earth. In the first century a number of men, primarily the apostles, were selected from that group to take the lead and to represent the entire group, and they served as a governing body then.

To this day we still have a governing body of anointed Christian men who oversee the work of Jehovah's Witnesses worldwide.

Q. Now, Mr. Ciranko, you referred to the Bible; and on the desk in front of you, what has been previously marked as exhibits, The Knowledge book, The Greatest Man book, another copies of the Bible, do you recognize that literature?

A. Yes, I do.

Q. What do you recognize it to be, sir?

A. Well, we have two other translations of the Bible there, and we have other publications that are used to study the Bible with people or to address the needs of young people or to better familiarize people with the life and ministry of Jesus Christ. Each one has a different purpose.

Q. Are those books that would be disseminated in the door-to-door activity of the individual members of the [27] congregation?

A. Yes, they are published by the Watchtower Society and distributed through the congregation members.

Q. Could you please explain to the Court what objection the Watchtower Bible and Tract Society has to obtaining a permit to engage in a public ministry?

A. As I referred to earlier, the Matthew chapter 28, verse 18, Jesus said all authority was given him in heaven and on earth, and so we feel that's all the authority or permission we need to preach. For us to seek a permit from a municipality to preach we feel would almost be an insult to God. We do not feel we need to do that.

As far as legal permission is concerned, that's been well established for us in the United States Constitution.

MR. CANTOR: Objection, Your Honor.

THE COURT: Sustained. You can't offer opinion testimony on the law.

BY MR. POLIDORO:

Q. Any other reason, sir?

A. As far as obtaining a permit is concerned.

Q. Right.

A. We feel it is restrictive —

Q. How so?

A. Well, in the ordinance in question here, for [28] instance, it restricts the hours of day when we can call from house to house. We feel it would be difficult to find some people at home during those hours.

Also it would require or permit the municipality to actually compile a list of the names and addresses of all the members of our congregation in Wellsville which we do not feel is appropriate for a minority religion.

MR. POLIDORO: Mr. Ciranko, thank you. I have no further questions. Thank you, judge.

THE COURT: Thank you, counsel.

Mr. Cantor, you may cross-examine.

MR. CANTOR: Thank you, Your Honor.

Appendix J

CROSS-EXAMINATION

BY MR. CANTOR:

Q. Good morning, Mr. Ciranko.

A. Good morning.

Q. You've indicated to us that you're familiar with the activities of Watchtower, is that correct?

A. Yes.

Q. Now the activities of Watchtower, have they been consistent in terms of the work that they do within the State of Ohio for the last 75, 80 years?

A. Are you referring to our house-to-house ministry, for example?

[29] Q. I am referring to the distribution of books, the ministry, the sending of literature to direct congregations, the building of kingdom halls, things of that nature?

A. We have been consistent in how we have conducted our ministry, yes.

Q. So it would be fair to say that you're not doing anything new today that you weren't doing 75 years ago. A fair statement?

A. Yes, it is.

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Q. Now you have made some reference to Our Kingdom Ministry, and you have a particular role with regard to that publication?

A. I help to edit it.

Q. And how many other folks help you edit?

A. I cannot tell you exactly how many, but there are several. It begins with a group of men who compile the articles for Our Kingdom Ministry. Those are assigned to a variety of writers. It's compiled and edited, proofread and published.

* * *

* * *

[34] * * *

Q. Now, sir, as we are talking, isn't it true that Jehovah's Witnesses are instructed to disregard no trespassing signs?

A. No, that's not true.

Q. Isn't it true that Jehovah's Witnesses are instructed to disregard no solicitation signs?

A. We do not feel that no solicitation signs apply to us since we are not solicitors.

Q. So if you say they don't apply to you, that would mean that a person who placed a sign that said no solicitation or no trespass, since it didn't apply to you, would have no effect upon a Jehovah's Witness who would be canvassing door to door, correct?

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A. It would —

THE COURT: Let me interrupt you, counsel. As I understand the briefing in this case, that issue is not before the Court. As I understand the plaintiff's position, that's not a challenged part of the ordinance; is that correct? Who would like to address that?

MR. POLIDORO: Yes. If I can, judge. In concept with respect to the no solicitation ordinance posting the sign, we have no problem. The only difficulty we have is with respect to the definition of solicitation which would impact not only on obtaining the permit, but whether that [35] section would apply to Jehovah's Witnesses.

THE COURT: Your reply memorandum was quite explicit indicating there was no challenge to that portion of the ordinance that would require any person going door to door to observe the no solicitation signs. I raise that only because I think that issue is off the table.

MR. CANTOR: Your Honor, we believe that it is pertinent because it deals with the community need with regard to privacy and the community need with regard to law enforcement.

THE COURT: All right. It will be admitted for that limited purpose then. You may rephrase the question, if you would.

MR. CANTOR: Thank you.

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BY MR. CANTOR:

Q. It's fair to say that Jehovah's Witnesses disregard the no solicitation signs placed on homes on the basis that they are instructed that such signage does not apply to them, correct?

A. That's right.

Q. Same question with regard to no trespassing signs. Same answer, sir?

A. No.

Q. Different answer?

A. Yes.

[36] Q. What is that answer?

A. We will respect no trespassing signs.

Q. Now the recommendation from the national organization to the local congregation is that each territory be considered and reviewed annually, correct?

A. What do you mean by reviewed?

Q. Well, the canvassing that goes on, that should be done on an annual basis. That's the goal of the local congregation, correct?

A. The goal of the congregation is to continually work its territory, however long that takes.

Q. But that canvassing, you believe it's aspirational to conclude it in one year, correct?

A. We would be pleased with that, yes.

Q. What do you mean by the word "canvass"?

A. We don't use the word "canvass." You used the word "canvass."

Q. I appreciate that, but you apparently understood the term when I used it with you, didn't you?

A. Well —

Q. First let's answer that question, and then I will ask another one. Did you understand the term when I used it with you?

A. I don't know how you mean it, no.

Q. Well, what does the word "canvass" mean to you?

[37] A. In my mind to canvass would mean to go from house to house perhaps to solicit members or solicit money from people, perhaps take a survey.

Q. Excuse me. I didn't mean to interrupt you. Anything else, sir?

A. No.

Q. Would it be fair to say in your mind it has got that same old dictionary definition? If you went to the dictionary, that's what it would mean to you?

A. That would be my only resource to define it.

Q. But you wouldn't need the dictionary because you have an understanding of the term as we sit here today?

A. Yes.

Q. Same thing with regard to the word "solicitation." Are you familiar with that term?

A. Yes.

Q. What is your understanding of that term?

A. That with solicitation usually is associated the desire to obtain money, perhaps because of selling a product or a membership in something.

Q. Would solicitation also include donations in your mind?

A. No, it does not.

Q. What term in your mind would consider the concept of donation? In a house-to-house search for that donation?

[38] A. I don't know that there is any.

Q. Okay. Now you have indicated to us a long history of being involved with church activities. It's fair to say, however,

that none of your oversight responsibilities ever included the State of Ohio; is that correct?

A. That's correct.

Q. When we had our general discussion about how the Watchtower works with regard to the local congregations, you identified the construction of kingdom halls. Are you familiar with that area?

A. Yes.

Q. Would you explain to us how Watchtower is related to that issue?

A. Watchtower has designated regional building committees throughout the country, and these are groups of elders from various congregations who, in addition to their responsibilities, will assist congregations who are desirous of building a kingdom hall or remodeling a kingdom hall.

* * *

[41] Q. Would you explain for the Court what the worldwide work is?

A. This has to do with, for instance, the publishing of our literature which is distributed throughout the earth. It is also used to support missionaries that we have in many different lands. Currently Watchtower Society supports over 2,000 missionaries in the four corners of the earth. So the money is used for that as well.

Q. Now the publication aspect of the funding includes the cost of the publication for the publication of Watchtower? Excuse me. Watchtower is a publication, correct?

A. Yes, it's a magazine.

Q. And there's another publication called?

A. Awake!

Q. And we've got a third piece of communication that goes to the congregation called The Kingdom's Ministry?

A. Our Kingdom Ministry.

Q. Any other publications that it funds?

A. Well, everything that the Watchtower Society has published over the years. We have quite an array of books and brochures, tracts, as well as Bible translations.

Q. So when this money comes in from a local congregation, whether it is in Ohio, New York or Florida, it is spent the way Watchtower feels is appropriate at its [42] national headquarters?

A. Correct.

Q. You've indicated to us that the ministerial aspect of the faith is basically grass roots. Fair?

A. Yes.

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Q. And that upon someone being baptized, that individual has the right, indeed the responsibility, of going door to door?

A. Yes.

Q. So every member in a congregation has that obligation?

A. That's right.

Q. And the determination of how frequently someone goes door to door is determined by the local congregation?

A. Are you asking how frequently the individual will go from house to house, or how frequently a neighborhood would be worked?

Q. Neighborhood would be worked?

A. The elders would determine that.

Q. With regard to a specific home, however, would that be up to the individual who is a new Jehovah's Witnesses at that minister level determination, or would that be somebody else?

A. Well, an individual has a neighborhood to work, and he would endeavor to call on every home and make contact.

[43] Q. You're not suggesting to the Court that the only place that your ministry can take place is at a home, are you?

A. No, not at all.

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Q. It's fair to say that you could conduct your ministry at the front of a grocery store?

A. Yes.

Q. At a tavern?

A. Yes.

Q. At a truck stop?

A. Yes.

Q. At a restaurant?

A. Yes.

Q. At a park?

A. Correct.

Q. At a playground?

A. That's right.

Q. At a post office?

A. Yes.

Q. On a street?

A. Yes.

Q. Any public area?

A. That's right.

Q. At a power plant?

A. Perhaps.

[44] Q. Any mutually agreeable location, correct?

A. That's right.

Q. Now my understanding, and I think you were clear, isn't it true that the Jehovah's Witness does not wish to preach to those who do not wish to receive the word? Correct?

A. If people do not want to listen to us, we are not going to force our religion upon them or our teachings, no.

Q. So when information is given to the Jehovah's Witness that an individual, a householder, does not wish to receive the word, there is no knocking on the door, correct?

A. That's correct, yes.

Q. The Village of Stratton has a listing of residences who do not wish to receive the word. Are you aware of that?

A. I heard that in your opening statement this morning.

Q. Do you have any information to the contrary?

A. No.

Q. Is there anything about a list that was kept current to identify those who would not wish to receive the word that poses a problem in your faith for the Jehovah's Witness?

A. It could, depending on who compiles the list.

Q. Well, if it's the individual, the householder, who writes out, make his wishes known, you don't have a problem [45] with that, do you?

A. It depends on at whose request the householder does it.

Q. He does it at his own volition.

A. Well, is this because the municipality has questioned or surveyed the residents and asked them if they want Jehovah's Witnesses to call, or is it because in a conversation with one of Jehovah's Witnesses the householder said, I don't want you to come back. I think there's a difference there.

Q. The difference in the statement that you have just made is that — your statement, there has been an intrusion to the householder by the Jehovah's Witness who has indicated that he did not want to see the Jehovah's Witness, correct?

A. If that's the case, then we will honor that wish of theirs.

Q. But you still intrude upon his privacy periodically to make sure that he is of the same mind, correct?

A. We will endeavor to make sure the person still lives there and still has that as their wish, yes.

Q. Well, if the listing remains the same, the individual has a piece of paper that says, I don't want to see you, and it remains the same, what purpose would it be beyond that for you to know that he no longer wishes to see you?

[46] A. Things change, people move, their circumstances change, their attitudes change.

Q. I understand that, but the attitude that is identified on a piece of paper is kept at a central location. Do you understand that?

A. Yes, and we date our records. If that slip is a year or two or three years old, how can we be certain that still is the wish of the person or that the person even still lives there?

Q. Well, the records that you are looking at are your internal records, correct?

A. Yes.

Q. You're not suggesting to us that every time that someone says to a Jehovah's Witness, I don't want to hear your message, that every time that that occurs, you get the actual name and the actual address of the individual, are you?

A. If they are adamant they do not want us to return to their home, yes. That was the arrangement I explained.

Q. Who determines whether someone is adamant?

A. Well, I think the householder would make that attitude very evident to our member.

Q. Would the householder be able to do that on a writing and still be effective in your eyes?

A. Yes, if the individual wrote to our congregation and [47] said, do not call at our home again, we would honor that.

Q. The decision to suggest that a donation be made during the course of the visit by a Jehovah's Witness is discretionary with the person making the call on behalf of the Jehovah's Witnesses, is that true?

A. It's not really a suggestion that the person donate. It's information that if the person wishes to donate, they may do so. That would be discretionary depending on the individual who's calling.

Q. So the individual minister, that person who has been baptized, who goes door to door, makes that decision during the course of the communication with the householder, correct?

A. Correct.

Q. Sometimes he does; sometimes he doesn't.

A. I would say most of the time he does not.

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Q. Sometimes he does; sometimes he doesn't?

A. Yes.

Q. Thank you.

MR. CANTOR: One moment, please, Your Honor.

THE COURT: You may.

BY MR. CANTOR:

Q. Mr. Ciranko, you are unaware of any attempt by the Wellsville congregation or any congregation to register with the Village of Stratton since the passage of the [48] ordinance that is presently under attack, is that correct?

A. Yes.

THE COURT: Let me clarify that answer. You are unaware of any attempt, or they have not? Which of the two would be correct?

THE WITNESS: I don't believe they have.

MR. CANTOR: I apologize for the poorly phrased question.

No further questions of this witness at this time.

THE COURT: Thank you, counsel. Redirect?

MR. POLIDORO: Very briefly if I might.

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REDIRECT EXAMINATION

BY MR. POLIDORO:

Q. Mr. Ciranko, are the activities of Jehovah's Witnesses in Ohio different than the activities of Jehovah's Witnesses in the states over which you have oversight?

A. No, they are not.

Q. And with respect to the follow-up calls on a do-not-call arrangement, could you explain to the Court how that follow-up call would work?

A. Generally an elder would assign to another elder, or each of the elders perhaps, those calls to follow up and see what the situation is there.

[49] Q. And what would the householder be asked?

A. If I can tell you how I've done it myself.

Q. Please.

A. In fact just a few months ago in our congregation in Connecticut our elders were asked to make these follow-up calls, and I was given a list of six that were four years old. So no contact had been made in four years. One I was never able to find at home. In the other cases I identified myself as being from the congregation, and that the reason we were calling is because we have on record their address as a place where Jehovah's Witnesses are not welcome to call in our

ministry, and I was just checking to see if that was still their wish. In two of the cases the householder said, no, that's not how we feel. You people are welcome any time you wish to call.

MR. CANTOR: Objection. Move to strike.

THE COURT: The objection will be sustained with respect to what the party actually said. But as far as the indication that the position had changed, that will not be stricken.

MR. CANTOR: Thank you.

THE COURT: You may proceed.

MR. POLIDORO: I thank you, Mr. Ciranko. I have no other questions. Thank you very much.

MR. CANTOR: Mr. Ciranko, thank you.

* * * *

APPENDIX K — EXCERPTS FROM TRANSCRIPT OF TESTIMONY OF VERCIL KOONTZ DATED JULY 27, 1999

[commencing at page 52]

Q. Are you currently a member of the congregation in Wellsville?

A. Yes, I am a member of the Wellsville congregation of Jehovah's Witnesses.

Q. Approximately how many individuals are members of that congregation?

A. It varies, but perhaps around 65 to 70, in that area.

Q. And where is that congregation located, sir?

A. It's located on 14th Street in the Village of Wellsville.

Q. Do you serve a particular role in the Wellsville congregation of Jehovah's Witnesses?

A. Yes, I do. I am an elder. I belong to the body of elders that has oversight of the congregation and the responsibilities of helping others in the congregation.

Q. When you use the term "oversight of the congregation," could you please help the Court to understand, sir, what your role as an elder is within the Wellsville congregation?

A. Yes, I would be glad to. We just heard information to that effect. The role of an elder is to oversee the duties or the

responsibilities of different ones in the congregation. So the body of elders work in conjunction [53] with not only working in the ministry, but also in the congregation itself with other duties.

Our main objective is to share the good news of the kingdom and the ministry as we have already heard.

Q. When you say share the good news of the kingdom, are you talking about sharing ideas from the Bible?

A. Yes.

Q. Could you please describe the activities of the congregation with respect to the public ministry?

A. Yes. The congregation as a whole has the responsibility of sharing in the ministry, and they each receive a territory, as we have already mentioned, as they work in a ministry. So they will not overlap each other, they concentrate in a particular area of the territory.

When the territory is finished or completely worked, they will turn the territory back.

Q. Let's just discuss that for a moment please, Mr. Koontz. When you say territory, is there a geographical region that the Wellsville congregation has the oversight over with the respect to the preaching of the good news?

A. Yes, they do. It is not a real large area, but we do have the village of Wellsville, other nearby small areas, other small

villages such as Stratton, Empire, Irondale, Highlandtown, up to — there are just a few small areas that we cover plus the rural area around these villages.

[54] Q. What is the mechanism that the congregation uses in order to work through the different locales that are a part of that congregation's responsibility with respect to the public ministry?

A. Would you explain the word "mechanism" please?

Q. Sure. How does the congregation ensure that the City of Empire, for example, is not worked in field service week after week after week for a period of months?

A. Very good.

Q. Thank you.

A. Thank you. We do have a way of working the territory so that the territory will not be overworked because our territory in itself is fairly large in the sense we cover it usually, as we've already heard, about once a year, which is our goal as well to try to cover all the territory, and we usually do that. At times we might cover one territory more than the other, depending on the weather or the location of the territory.

Q. So an elder would pick a specific territory card out, work that and then return the card?

A. Yes.

Q. Is there a way that the congregation would work in an organized fashion through the different territories they have?

A. We would use the same method. Sometimes someone that [55] gets a territory from the territory servant will assign others in his group to work certain parts of that territory. So by doing this, all will have a share in the ministry.

Q. Thank you. Sir, I would like to show Plaintiff's Exhibit 4. Mr. Koontz, do you recognize that?

A. Yes, I do.

Q. And what do you recognize that to be, sir?

A. That's a territory card of Empire and Stratton, Ohio.

Q. Now when you were speaking about territory cards, the different geographic region of the congregation is broken up in different cards?

A. Yes.

Q. Do you know approximately how many cards there would be with respect to the — withdraw that.

Do you know approximately how many territory cards the congregation of Wellsville has responsibility for?

A. Yes, I would say between 70 and 80.

Q. What is the charge for home Bible studies, Mr. Koontz?

A. There is no charge.

Q. Why is that?

A. Well, the scripture is very plain saying we receive free and we give free. So there is no charge in the ministry work that we do for other people. . . .

[58] THE COURT: Again give us an approximation, 1970s, 1980s or 1990s?

THE WITNESS: Well, 20 years would be '79.

MR. CANTOR: Judge, so the record is correct, I believe the letter is dated 1980 as part of the exhibits.

THE COURT: The objection will be sustained as far as the 1980 conversation. I understand there is a more recent one. You may inquire with respect to that one.

BY MR. POLIDORO:

Q. Is there another incident that you were involved with, sir?

A. Yes, I was working the Village of Stratton, working door to door in the ministry, and I was talking to a lady at the door, having a fine conversation about the Bible, and I noticed she was preoccupied with something behind me, and I wasn't sure what it was, but I did finish my conversation; and then she mentioned, I think that gentleman across the street wants to talk to you.

And I turned around and walked directly across the street to him and asked him if there was a problem. He said, I want you to get your group, or something to that effect, I am not sure of the words he used, and get out of here. I says, well, you realize we do have a right to preach the ministry from door to door; and he said, I could care less about your rights. And so I got the group, and [59] we left the village.

Q. When you say —

MR. CANTOR: Your Honor, at this time we would object and move to strike. There is no time foundation. There is no representation that this has anything to do —

THE COURT: We need to know who made the representations and when they were made before I admit that testimony, counsel.

MR. POLIDORO: Thank you, judge.

BY MR. POLIDORO:

Q. Mr. Koontz, could you please tell the Court who you spoke to, who said those things to you?

A. All I know, he was a policeman in the village, and he was not in uniform, but he identified himself as a policeman.

Q. And the approximate time this incident took place, sir?

A. I would say it was probably eight to ten years ago, and I am not sure of that exactly.

Q. Now I would like to turn your attention, sir, to the last time that the congregation of Wellsville engaged in a public ministry in Stratton, which is approximately the spring of 1998. Prior to the members of the congregation going out in the public ministry, were they given any special instructions with respect to their activities in [60] Stratton?

A. Yes, I think so. They were admonished to conduct themselves properly, as they have always been, and then they were instructed not to ask for any contribution from the householder, and we thought perhaps this would be a better means of working in the ministry without hindrance from the village.

MR. POLIDORO: I thank you, sir.

I have no other questions, Your Honor.

THE COURT: Thank you, counsel.

Mr. Cantor, you may cross-examine.

MR. CANTOR: Thank you, Your Honor.

Does the witness have Defendant's Exhibit 3? It's the defendant's exhibit book. This was the plaintiff's exhibit book.

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CROSS-EXAMINATION

BY MR. CANTOR:

Q. Good morning, Mr. Koontz.

A. Good morning.

Q. You are presently an elder with the Wellsville congregation?

A. That's true.

Q. And you have held that position for approximately how long?

[61] A. Since 1972.

Q. And around 1979, 1980, when you wrote the letter to Mr. Bruzzese —

A. Yes.

Q. — you were an elder at that time?

A. Yes, I was.

Q. And you retained copies of the correspondence received from Mr. Bruzzese?

A. I am sorry, but I don't recall if that was retained or kept or not. I didn't have knowledge of that. I do recall what was

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in the correspondence, but I do not have access to the information or the letter.

Q. Is there a special repository within the kingdom hall where records of this nature are kept?

A. Yes, there is.

Q. And during the course of this particular case, the Wellsville congregation was asked to retrieve the communication, and this was one of the documents that was retrieved; isn't that true?

A. Are you referring to the one that I am looking at here?

Q. Yes, sir.

A. It seems very accurate. I recall the information in it is what I recall.

Q. I appreciate your response, but my question is: Was [62] that document retrieved from your kingdom hall?

A. I'm not sure.

Q. Do you have any information as to where else the Wellsville congregation would have been able to retain that document for the last 19 years?

A. I would suggest that it did come from the files at our kingdom hall.

Q. That would be your best understanding of it?

A. Yes.

Q. You kept these type of records for — for what reason?

A. Because there seemed to be a problem, and I assumed that eventually this would have to be resolved some way.

Q. So you felt the document was important?

A. Yes, I did.

Q. Who is this Tammy Tuckosh?

A. Tammy Tuckosh is a pioneer minister in our congregation.

Q. And in 1998, just before this lawsuit was filed, she had a confrontation in the Village of Stratton to your knowledge?

A. Yes, I understand she did.

Q. When she came back from that meeting, you requested that she write down what happened during that confrontation?

[63] A. Yes, I do remember that.

Q. But you can't find that document today?

A. For some reason it's not available, and I have no idea why.

Q. But you can find, your congregation can find a 19-year-old document, correct?

A. Yes.

Q. Now with regard to Exhibit 4, that's the card that you have there, is that the actual card that the congregation uses?

A. Yes, it is.

Q. Where on the card is the location for the do not calls?

A. Usually the information is put on the back so that when an individual receives the card, they will be able to look at the card and see the information available to see who should not be called on.

Q. How many do not calls are there associated with the Village of Stratton?

A. I don't see any on this one.

Q. You became aware of the ordinance that was passed in the Village of Stratton, correct?

A. I —

Q. Have you read it?

A. I recently heard about the ordinance.

[64] Q. Did you read it?

A. No, I have not read it.

Q. Do you know the charge for the filing for the registration?

A. No, I'm not familiar with that.

Q. Do you know that it's free?

A. I'm not sure if I ever heard it was free. I just heard there was an ordinance.

Q. You have been successful in preaching at locations other than at an individual's home, haven't you?

A. Besides the door-to-door ministry you are talking about?

Q. Yes, sir.

A. Yes.

Q. If an individual made himself available to you on the street as opposed to his home, that would just be another form of talking to people and would not impact on your faith; isn't that true?

A. That's true.

Q. The Wellsville congregation does not deal with the doctrine of the church. It only deals with the administrative issues, is that correct?

A. It deals with doctrine as well as administrative. They do not make the doctrine, but they do follow through on the doctrine.

* * *

[67] Q. Part of your job at the congregation included making sure that there were enough publications to be given to those who were doing the door-to-door ministry, correct?

A. That's correct.

Q. And you would write for these publications to Watchtower, and they in turn would send it to you?

A. That's correct.

Q. Was there — There was no charge for that, was there?

A. No charge.

Q. The money was expended from the worldwide ministry, isn't that true?

A. That's true.

Q. You agree with the principle that if the organization indicates to you that someone doesn't want to be preached to, that you won't preach to them?

A. Yes, that's true.

Q. If someone wrote you a note to indicate that they did not want you to preach to them at their home, would you honor that note?

A. We would honor that.

Q. If you found that note on a bulletin board, would you honor that note?

A. On a bulletin board where?

Q. On a bulletin board at city hall?

A. I would rather hear from the individual himself, but [68] I am not sure if I would honor that. Some prank could have put it up there.

Q. No one has indicated to you during the 50 years that you have been associated with your faith that you are forbidden from making application or requesting a permit to continue preaching from door to door within a community, correct?

A. That's correct.

Q. You are aware of other members of your faith in different sections of the country that in fact do sign registration forms and do request permits, isn't that true?

A. No, I'm not familiar with that.

MR. CANTOR: Counsel, I refer you to page 32 of the deposition, top of the page.

BY MR. CANTOR:

Q. Mr. Koontz, this isn't the first time that you and I have met?

THE COURT: Do you have a copy to give to the witness?

MR. CANTOR: I believe I do.

MR. POLIDORO: What page was that, sir?

MR. CANTOR: I believe it's 32. Withdrawn, Your Honor.

Counsel, excuse me. I am going to refer you to page 34 of the deposition.

[69] BY MR. CANTOR:

Q. Sir, you have now been handed the deposition?

A. I am sorry, would you repeat that?

Q. Sure. You have now been handed your deposition?

A. Okay, thank you.

Q. Is that correct?

A. I guess it is.

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Q. Would you look at the front cover and see whose name appears on there?

A. Yes.

Q. That is your deposition?

A. Yes.

Q. Would you review page 34 to yourself? Have you reviewed page 34?

A. Yes, I have.

Q. Do you see the question that begins, "And you're aware of other members of your faith in different sections of this country that in fact do sign listings that request permits to allow them to preach door to door, correct?" Do you recall that question?

A. Yes, I do.

Q. And do you recall your answer?

A. "I think I have heard that. I've heard that."

* * *

[71] (The witness affirmed.)

THE COURT: Counsel, you may proceed.

* * * *

APPENDIX L — EXCERPTS FROM TRANSCRIPT OF TESTIMONY OF TAMMY TUCKOSH DATED JULY 27, 1999

[commencing at page 71]

* * *

TAMMY TUCKOSH

being first duly affirmed, as prescribed by law, was examined and testified as follows:

DIRECT EXAMINATION

BY MR. POLIDORO:

Q. Good morning, Mrs. Tuckosh. Could you please state to the Court how you first became associated with Jehovah's Witnesses?

A. My parents being Jehovah's Witnesses, I was brought up in the organization and taught from a young child; and then when I became of age to do a lot of personal study myself at age 17 of March 23, 1985, I dedicated my life by baptism.

Q. Thereafter, did you have any other relationship with your local congregation?

A. Yes, I am considered a full-time minister.

Q. Would you please tell the Court what that is?

A. That is considered that I spend — I volunteer my time. Up to the beginning of this year, I spent 1,000 hours a year or 90 hours a month; and at the beginning of this year it changed to 70 hours a month and 840 for the year.

[72] Q. And when you say you spent 1,000 hours a month, what was your compensation for doing this?

A. A year.

Q. A year. That would have been a busy month. What was your compensation?

A. I volunteered my time, and I supported myself by part-time work; and now that I am married, my husband assists me in that, too.

Q. Could you describe to His Honor what you do with respect to your activity in the full-time ministry?

A. I spend my time in preaching and teaching ones from the Bible to help them understand the work that Jesus even set the example for us in doing.

Q. What does this preaching and teaching activity encompass? What do you actually do?

A. I go from door to door. I have even went into businesses and talked to ones. I have had personal Bible study with ones to help them understand what God requires of us.

Q. In the spring of 1998, what congregation were you a member of?

A. The Wellsville, Ohio.

Q. Were you a full-time minister at that time?

A. Yes, I was.

Q. In the spring of 1998 did you have the opportunity to [73] perform public ministry in the Village of Stratton?

A. Yes, I did.

Q. Would you explain to the Court what happen?

A. When we went in, we went in a group, I was with three others in our car group, and that morning for about two to two-and-a-half hours we did the preaching from door to door.

Q. Were you given any special instructions by the elders of the Wellsville congregation prior to performing the public ministry in Stratton in the spring of 1998?

A. That we was to go in to preach and do our work as normal, try to reach as many people as we can this morning, but we was also given the instructions not to ask for any donations at that time.

Q. When you say not to ask for any donations, what do you mean?

A. Well, usually we take the opportunity at the end of discussing a Bible thought, if one accepts information or we get to share a Bible thought, then we mention to them if they

would like to donate towards the worldwide work, that is up to them. They have the opportunity to express their appreciation.

Q. What if an individual does not want to make a donation but does want to read a piece of literature, what do you do?

[74] A. We still leave it with them.

Q. Did anyone show interest in the Bible-based message that you were delivering that morning?

A. Yes, they did.

Q. Approximately how many people?

A. I personally had about three to five.

Q. Did there come a time thereafter you returned to the Village of Stratton for the purpose of engaging in public ministry?

A. It was about two weeks after the first visit there.

Q. Could you please tell the Court what happened?

A. We went in to make return visits on ones that we had contacted prior, the ones that showed interest, whether in just the Bible message or even accepted the literature, so we can continue that information that we had shared with them.

Q. Now when you used the expression "return visit," can you help us understand what that means?

A. We apply that terminology to ones that expressed interest in the Bible teachings, also ones that we have left literature with, and even ones that have asked us to come back personally.

Q. Now these return visits that you made, these were the three to five individuals who showed interest on your prior visit?

[75] A. Correct.

Q. Did you find any of these three to five individuals at home?

A. Was that on the —

Q. The second time?

A. Yes, I found a few people at home. One in particular, I got a gentleman I had talked with, not his wife at the first visit, he himself wasn't interested, but he said I could come back and talk to his wife. If she was interested, she could tell me at that time.

Q. Thank you. Did you leave any literature with any of the individuals that you met on the second occasion?

A. That particular gentleman, no, of course I didn't. But other ones that I did come in contact with, yes, I did leave literature with them.

Q. Now on this second visit, did you mention the voluntary donation arrangement?

A. No, I did not.

Q. Did you mention the voluntary donation arrangement on the first visit?

A. No.

Q. So on neither visit did you solicit any money from the householders?

A. No, I did not.

Q. When did you next return to Stratton?

[76] A. Probably about a month on so after the second visit.

Q. What was your purpose for returning to Stratton at this time?

A. To talk to the same individuals that I had contacted on the initial visit to Stratton.

Q. People who had previously showed interest in the Bible-based message that you were returning to?

A. Correct.

Q. Did you find any of those individuals at home?

A. No, at that time I did not.

Q. What occurred on your leaving Stratton that day?

A. That was when I was confronted by a gentleman that had came out of a building. He hollered at the group that I was with to stop, and actually at that time we was leaving Stratton —

Q. Would you explain to the Court what you mean you were leaving Stratton? Physically what were you doing?

A. We very close to the stop sign to go out on Route 7.

Q. You were in a car?

A. Yes, and we were done visiting the ones that we had planned on doing that evening.

Q. And what happened with respect to this confrontation?

A. After he hollered at us to stop, of course we stopped because we didn't know exactly who he was. He approached the car, and he was very upset with us. He asked us what [77] we were doing there in the town. I explained to him that we was there sharing Bible thoughts with ones, and he told us that we were not allowed to be there in the village. Then he explained to me that he had been in contact with his attorney and also our attorney, and I said I was fully aware of that, but our attorney advised us that it was our right to go in and preach.

He at that point told me that the ones that had moved into Stratton had moved in there under the understanding that they would not be bothered by Jehovah's Witnesses. And even after that point he said that if we were men, he would

have taken us and put us in jail. And through this whole situation he was shaking and pointing his finger at us, and he was very upset.

At this point I said to him, well, who are you anyways? And he said Mayor John Abdalla; and at that point I wrote his name down, and then we left.

Q. Do you see him in court today?

A. Yes, I do.

Q. Would you point him out? Indicating the mayor?

A. Yes.

Q. Was there a time thereafter that you ever returned to the Village of Stratton for the purpose of engaging in the public ministry?

A. No, I did not.

* * *

[79] * * *

Q. At any time were you informed by Sheriff Abdalla that you needed any type of permit to conduct your preaching activity in Stratton?

A. No.

MR. POLIDORO: Judge, I have no other questions.

THE COURT: Thank you, counsel.

Mr. Cantor, you may cross-examine if you wish.

CROSS-EXAMINATION

BY MR. CANTOR:

Q. Mrs. Tuckosh, you have been a full-time minister as a Jehovah's Witness, and you have been preaching since the age of ten; is that correct?

A. I have been a publisher of the good news since I was 10, but as a full-time minister since the age of 17.

Q. The procedure in the Wellsville congregation during the time in which you were associated with them was that when someone did not want to hear preachings, that their name would be taken down and then placed in some type of document; and then approximately one year later an elder would review the information with the individual, correct?

A. Correct.

Q. In 1998 you were in Stratton on three separate [80] occasions, correct?

A. Correct.

Q. The first time was in the middle portion of the year, correct?

A. About springtime.

Q. You preached for about two, two-and-a-half hours, between the hours of 10:00 to 10:30, correct?

A. You mean starting at 10:00, 10:30?

Q. Yes, ma'am.

A. Yes.

Q. And that was on a Saturday?

A. Yes.

Q. Nothing unusual occurred on that occasion?

A. No.

Q. You went to 30 to 50 homes on that occasion?

A. Yes.

Q. The second time that you went to the Village of Stratton was about two weeks later?

A. Correct.

Q. At that time you restricted your activities to the three to five folks who indicated they had an interest in seeing you at that point?

A. Yes.

Q. Then we have — That trip was uneventful in the sense that you have had no contact with anyone from the [81] administration of the city or any representative of the city, correct?

A. You mean specifically with the Village of Stratton?

Q. Yes, ma'am, on that occasion.

A. Correct.

Q. Now we are going to talk about the third occasion. It's in the evening hours.

A. Yes.

Q. It's after six in the evening?

A. Yes.

Q. Mayor Abdalla is coming from what appeared to a restaurant or tavern, is that correct? You subsequently learned that was his place of employment, didn't you?

A. No.

Q. And then he spoke to you in a loud voice?

A. Yes.

Q. He was not profane?

A. No.

Q. Are you suggesting to us that he swore at you?

A. No.

Q. Okay. He just raised his voice?

A. Correct.

Q. Now this event that you're talking about occurred before the filing of this lawsuit, correct?

A. I assume so.

[82] Q. There is nothing in your faith as a Jehovah's Witness to prevent you from obtaining a permit to enable you to go door to door, correct?

A. Correct.

Q. Your sister is April Jackson?

A. Yes.

Q. She resides in the Cleveland area?

A. Yes.

Q. You are aware that she has obtained a permit or wears a badge when she goes door to door, isn't that true?

A. She doesn't have to obtain a permit. I did find out for sure.

Q. She wears a badge when she goes door to door in the Heights area, isn't that true?

A. Yes.

Q. Now the decision to ask for donations by a person who is going door to door is made by the Jehovah's Witness who is going door to door, correct?

A. Correct.

Q. And that decision is made when the Jehovah's Witness determines it would be appropriate to inquire whether a donation would be appropriate, correct?

A. Correct.

Q. You are willing to accept cash, correct?

A. Correct.

[83] Q. You are willing to accept checks?

A. Correct.

Q. And you would like the checks to be made out to the Jehovah's Witnesses, correct?

A. Correct.

Appendix L

Q. And then you go back to your kingdom hall, and at that point in time you deposit the funds for the worldwide work, correct?

A. Correct.

Q. Very rarely do you receive any funds that are associated with the ongoing work of the local kingdom hall when you do this door-to-door ministry, correct?

A. Correct.

Q. Mayor Abdalla readily identified himself as the mayor, correct?

A. At the end of our conversation, yes.

Q. Now you came back to the kingdom hall.

A. Yes.

Q. You saw Gene Koontz?

A. Yes.

Q. He's an elder in the church, correct? He previously testified in the courtroom here today, correct?

A. Yes.

Q. And at that time you were asked to prepare a document to write down what exactly took place?

Appendix L

[84] A. Yes.

Q. That document apparently can't be found, is that correct?

A. Apparently, yes.

Q. When that document was prepared by you, did you intend to make it thorough and complete?

A. I am sorry, your question again?

Q. When that document was prepared by you, did you intend to make it thorough and complete?

A. Yes.

Q. And when you completed that document at the request of Mr. Koontz, who did you give it to you?

A. Gene Koontz.

Q. Approximately when did you give it to him?

A. That same evening.

MR. CANTOR: One moment, Your Honor.

BY MR. CANTOR:

Q. Ms. Tuckosh, the Wellsville congregation and its members operate pursuant to the direction of the New York organization, correct?

A. Through the governing body, yes.

Q. And when the governing body instructs you not to go back to a home that has indicated that they do not wish to hear the word, do you honor that request?

A. Well, like I said, we go back after a year; yes.

[85] Q. If the individual were to write you a note to indicate that they do not want to hear the information, would you honor that note?

A. Yes.

Q. If that note was handed to you, would you honor it?

A. Yes.

Q. If it was placed on a bulletin board, would you honor it?

A. I don't know how I would answer that one, though.

Q. Now the conversation that you had with Mayor Abdalla, did he indicate to you that there were still discussions between Mr. Moake and Mr. Bruzzese about the new language to be inserted into the 1998 ordinance?

A. He mentioned he had been in contact with our attorneys; but as to specifics, no.

Q. So you don't know whether or not the legislation that's under discussion today was in effect at that time —

A. No.

Q. — correct? You are unaware of any information to indicate that the Wellsville congregation has requested or anyone has requested the opportunity to obtain a free license to go door to door within the village on behalf of the Wellsville congregation of Jehovah's Witnesses, correct?

A. Correct.

* * * *

APPENDIX M — EXCERPTS FROM TRANSCRIPT OF TESTIMONY OF MAYOR JOHN ABDALLA DATED JULY 27, 1999

[commencing at page 88]

* * *

Q. How long have you been operating the tavern restaurant?

A. Since 1958.

Q. Do you have any other family within the village?

A. Yes, my brother, sister, nephews, nieces.

Q. I am going to ask you to take the defendant's exhibit book which has now been — that's the white book — and I am going to go through that white book with you. Okay?

A. Yes, sir.

Q. These are no longer exhibits. They have now been entered into evidence. So we will have that sense. Why don't we begin with Exhibit 7.

A. Yes, sir.

Q. What is Exhibit 7?

A. It's a topo map of the Village of Stratton.

Q. It's an aerial view?

A. Yes, sir.

Q. What is Exhibit 8?

A. Another picture of the Village of Stratton.

Q. This time it's a map, correct?

A. Yes, sir.

Q. Would you explain to us please where the Village of Stratton is in relationship to State Route 7?

A. Right parallel to it, no more than ten feet.

[89] Q. Can you also explain to us where Stratton is in relationship to the Ohio River?

A. On the other — maybe 30, 40 feet. Runs right through the village there on the side.

Q. How far is the Village of Stratton from the State of West Virginia?

A. Maybe a quarter of a mile. With the river.

Q. How far are you from the State of Pennsylvania?

A. Well, if you head north towards Midland, approximately 15, 16 mile.

Q. Now when we talk about the Village of Stratton, the portion where folks live, there is a portion where there is a big power plant, correct?

A. Correct.

Q. The portion where folks live, can you explain how large an area that is?

A. Not that large. Approximately, the residential section would be from Route 7 to the railroad tracks, maybe two football fields, two-and-a-half football fields. That's east and west.

Going north and south, maybe not even half a mile of residential section.

Q. Now with regard to the homes that are there, are they large homes or small homes?

A. They're average size homes. Nothing mammoth.

[90] Q. When was the general average age of the construction of the homes?

A. The age of the homes?

Q. Yes, sir.

A. The newest home in the village is 30-some years old.

Q. In addition to the homes there are also trailers?

A. Yes, sir.

Q. Are there any — Let's turn the page and go to Exhibit 9. What is Exhibit 9?

A. Yes, sir.

Q. Do you see Exhibit 9?

A. Do I see it? Yes, sir.

Q. And at the north and south corporation limits of the village are there signs?

A. Yes, sir.

Q. What do the signs say?

A. Speed checked by radar. No solicitation without a permit. Violators will be prosecuted.

Q. Now with regard to the village itself, are there any businesses located within the community?

A. There's a few.

Q. Would you tell us what they are?

A. Yes, sir. There's my place of business.

Q. The tavern restaurant?

A. The tavern restaurant, truck stop. . . .

* * *

[94] A. There was a couple instances.

Q. Did you suggest that during the course of the council meetings?

A. Suggest —

Q. Did you tell people this during the council meetings?

A. Yes.

Q. What information did you tell them?

A. We should do something. We have people coming in canvassing, solicitors, for example, selling siding, selling meats out of the back of a pickup truck, we had them doing blacktop driveways, just several instances. They hit on mostly the senior citizens.

Q. Okay, and with regard to the difficulties with these particular transactions, let's talk about them one at time. The first one that you identified was what? What was the first one?

A. Just now?

Q. Yes.

THE COURT: You're referring to the siding?

THE WITNESS: The siding.

BY MR. CANTOR:

Q. The siding.

A. Yes, sir.

Q. What were the events that you understood according to the siding?

[95] A. Well, I was at the office doing some work for the village, and I got a call from my place of business that some gentleman was running some siding; and I came in, I told the girl who called not to let on who I am, I will act as a customer, which I did. I asked for a bottle of beer and started kibitzing with them, and they told me they was selling siding and wanted to know if I wanted any, and I asked them if they had a permit.

Q. Now at that time was there an earlier ordinance that required a permit to go door to door?

A. Yes, sir.

Q. That's the permit you're talking about?

A. Yes, sir.

Q. Not the permit that we are talking about —

A. No, this was prior to that. And they told me they had. I asked them if I could look at it, and they come in with something from East Liverpool, Ohio; and I told them that was in another county, another community, and you should get one from the mayor, and they says, we did, and they filed through the paperwork and couldn't find it; and then I introduced myself as the mayor, and I asked them if they wanted to go up and get a permit. And they says, no, and they left town. I know the license plate was from Pennsylvania.

Q. Now the next episode that you made reference to at a [96] council meeting concerned what?

A. The people selling meats out of a pickup truck.

Q. And when did that occur?

A. That occurred several times. And I kept asking them — I wanted to know about the meat, about the freezer, because I didn't know, nobody knows how many times it was frozen and thawed and so forth, and I was concerned; and I asked them to identify themselves, there was no label on the truck and freezer, and they refused to do so. So I asked them to leave the village.

Q. And did they?

A. Yes, sir, but they have come back, different driver, different people.

Q. Did they register at that time?

A. No, sir. I gave them the same offer, and they refused, left town.

Q. With regard to blacktop?

A. Yes, sir.

Q. What was the episode that you explained to council?

A. They will come in, and at certain times of the year you don't do blacktop work. It's — You have to have a certain temperature. It has to be heat, and the blacktop plants have to be open. At this particular time there was none open. We have one just south of it, a mile and a half from the village.

[97] Q. And what was the concern with regard to the blacktop sales?

A. They will come in and offer you a deal you can't refuse. You think you can't refuse it. You give them a down payment, and they leave, and you don't see nothing more of them.

Q. Did you have an experience like that within the village?

A. I am trying to remember if I did or not. I have heard about. It was advertised. We was warned. It was on the news media, the scam artists, construction artists.

Q. So not just in the conversations that you had during your council meeting, you also had — you had personal information from the news media and other sources as to the need to prevent scams, con men coming in and taking advantage of the senior population; is that correct?

A. Yes, sir.

Q. Now you've indicated that you are a long-time resident of the community. How frequently do you receive phone calls from the hours of — the not traditional working hours nine to five?

A. I receive calls all time of the day and the night. The only time —

Q. Is it at work?

A. At my place of business, yes, I stay there.

* * *

[100] Q. So when you posted bond in this particular case, there was nothing unusual about you having —

A. No, sir.

Q. — identified the amount of bond?

I would like to talk a little bit more about the population of the community. Now you previously told us about the senior citizens. Let's talk about the folks who are actually employed during the work week. Are these people employed on shifts generally?

A. Yes, sir.

Q. And what are the hours related to the shifts?

A. Well, they'll work daylight, will be seven to three; afternoon, three to eleven; and the midnight would be eleven to seven.

Q. Would you characterize the community as close knit?

A. Very much so.

Q. Generally are long-term residents within the community?

A. Yes, sir.

Q. What are the regular working hours of the village hall?

A. Approximately 9:00 to 4:00, 4:30.

Q. How many police officers do you have in town?

A. One full-time, one part-time.

Q. His name presently?

[101] A. Mike Wilson.

Q. What hours does he work?

A. His hours are seven in the evening until four in the morning, or three in the morning.

Q. During the course of — strike that.

How would you characterize the crime that occurs within the village?

A. Very low. Not — nothing which you call very, very serious unless it affects the individual.

Q. You have indicated that you are a member of the senior citizens center. You have indicated that your brother also resides in town. What's your brother's name?

A. Fred Abdalla.

Q. Does he hold any elected office?

A. Yes, sir, he is the sheriff of Jefferson County.

Q. And he in advance of you was actually the mayor of this town, was that true?

A. I was mayor. He was mayor. I am mayor now.

Q. Can you give me the chronology? In other words, what year did you first start as mayor?

A. I was mayor from '63 to 1970, and some gentleman took my place by the name of Paul Zdinak. He was there for the unexpired term. My brother ran and was elected, and then Fred was elected sheriff, had another mayor, and I was back in Stratton then, and people came to me and said, your [102] brother is not here. Would you run again? Which I did, and I was elected, and that was in '87.

Q. And you have been mayor ever since?

A. Yes, sir.

Q. Does your brother, the sheriff, make speaking engagements in the area?

A. Yes, he does.

Q. Do you participate or attend those speaking engagements?

A. Not always, not when I am busy.

Q. But do you attend some?

A. Yes.

Q. With regard to the Village of Stratton, has he made any speaking engagements concerning crime?

A. Yes, sir.

Q. Where does he make those speaking engagements?

A. At the senior citizens center.

Q. What is the nature or the topic of his discussions with the seniors?

MR. POLIDORO: Objection. Calls for hearsay.

THE COURT: As far as nature of the topic, I will overrule the objection. The topic, the contents, are hearsay.

MR. CANTOR: Thank you, Your Honor.

BY MR. CANTOR:

[103] Q. What is the topic?

A. Scam artists, people taking advantage of the older people.

Q. Have the Wellsville congregation made an application to obtain a permit under the present ordinance for registration of soliciting and canvassing?

A. No, sir. May I say something please?

Q. No, sir, not at this time. Not at this time.

A. Sorry.

THE COURT: You will get your chance.

MR. CANTOR: One moment please.

BY MR. CANTOR:

Q. During your tenure as mayor and under the present ordinance that's under discussion, on how many different occasions have you denied a permit to anyone requesting a permit?

A. I never have denied anybody a permit. Nobody has ever asked for one. Nobody from the Jehovah's Witnesses has asked me for a permit from when I was mayor in the '60s to the present.

Q. I am talking about now. My question to you only pertains to the present ordinance that's under discussion. Has there been an occasion when anyone had made an application for a permit and was denied one?

A. No, sir.

* * *

[105] Q. As presently used in the Village of Stratton?

A. Yes, sir.

Q. Would it be fair to say that this represents all of the applications for permit to register for canvassing, solicitation, pursuant to the present ordinance?

A. Yes, sir.

Q. Exhibit 36, that's a permit to canvass, to solicit, and there is a signature line on the bottom for the mayor?

A. Yes, sir.

Q. That's you?

A. Yes, sir.

Q. Who actually gives these out?

A. The village clerk.

Q. You have got them pre-signed?

A. Yes, sir.

Q. Did there ever come a time in which you have revoked a permit that was actually issued?

A. No, sir.

Q. Do you understand under the ordinance that you have the opportunity to revoke permits?

A. Yes, sir.

Q. What is your understanding of that opportunity?

A. If they misrepresented themselves or if fraud was being committed.

Q. What do you mean by fraud?

[106] A. Doing something that's wrong, some injustice to the senior citizens, something that they claim they were going to do and not doing or doing the opposite.

Q. Could you give us an example please?

A. Okay. I don't know how to put it in the right words. If they come in and wanting to do, say, a siding job and they end up doing something that's not the siding, something different, different than what they intended to do or tell their customers that they are going to do, the potential customers.

Q. What beneficial effect does the sign-up by the solicitors have for the community?

A. In case something is wrong, something goes wrong, that I have a recourse to come back on the people. If they misrepresented, done some injustice to the people, committed a crime or whatever, I have an idea how to go, the registration, the automobile, the name or the address or the company they're representing.

Q. Now since 1996, the village has had a no solicitation ordinance. Do you receive regular phone calls from people who want the knocking on their doors to stop?

A. No, sir. You're saying did —

Q. Let me rephrase the question.

A. Rephrase that please.

Q. Do you receive phone calls from people who are upset [107] and don't want solicitors at their door?

A. They're calling and asking —

Q. Asking you to stop the soliciting?

A. Yes.

Q. How frequently does that happen?

A. It seems like any time somebody is being disturbed, they will ask, John, did you give anybody a permit? And I'll say, no. They'll say, they're here. They are bothering me.

Q. Can you give us some names of folks who regularly make those phone calls?

A. One name that was here was Walter Parsons, I had a Bill Shields, Carol Householder, Irene Blischak, Teresa Zdinak on a couple occasions, Beth Zdinak.

Q. Let's now turn to Exhibit 37. Exhibit 37 deals with what we call the Kirby vacuum cleaner situation?

A. Yes.

Q. That was the situation that was dismissed in mayor's court, correct?

A. Yes, sir.

Q. Now each month at your council meetings does the chief of police, Mike Wilson, make a report?

A. He leaves a police report on my desk and each of the councilmen's, yes.

Q. And those police reports are found in Exhibits 12, [108] 13, 14, 15 and 16 for the respective months as identified, is that correct?

A. Yes, that was your exhibit.

Q. Would you look at Exhibits 13, 14, 15 and 16?

A. Do you want me to read them or just look at them?

Q. I want to make sure those are the actual police reports.

A. Yes, sir.

Q. Those were the police reports that were obtained that identified soliciting problems within the village, correct?

A. Okay.

Q. Is that correct?

A. Yes, sir.

Q. Now I am going to ask you to go to Exhibit 10. Are you at Exhibit 10?

A. Yes, sir.

Q. At 10A, do you see 10A through 10D are no solicitation signs on homes that are residences within the community?

A. Yes, sir.

Q. 10E, what does that show?

A. The village square.

Q. And what's located in the village square?

Appendix M

A. Well, a rather large parking area. You have got the grocery store on the one side. You have the post office — [109] Whoever took the picture of the post office it would be behind them. To the right you have my tavern restaurant and the truck stop, and right behind the grocery store is another tavern.

Q. Is there a need for a permit to talk to people in this area of the square?

A. No, sir.

Q. Let's turn the page. 10F, post office.

A. Pardon me?

Q. 10F, [illegible]ost office?

A. That's the post office.

Q. Now I don't know if, I may have stated it in opening statement, but I don't know if I asked you the question, are there any mail boxes within the community —

A. No, sir.

Q. — with respect to the homes? So everybody has got to come here to the post office?

A. Yes, sir.

Q. Is there any restriction on canvassing or soliciting or asking people for information here at the post office?

Appendix M

A. No, sir.

Q. So you get 100 percent attendance going to the post office Monday through Friday?

A. Correct.

Q. Exhibit 10G, the post office lobby. That shows the [110] interior of the post office with the post boxes?

A. The mail boxes, yes, sir.

Q. The same answer for 10H, mail boxes in the post office?

A. Yes.

Q. 10I, Riverside Market?

A. Yes.

Q. Is that an area that you need a permit to canvass or solicit?

A. No.

Q. 10J, now the village has got a playground, you call it a playground. Would you explain to the Court how large a playground it is? It's called the Fifth Street playground.

A. The one here on 10J?

Q. Yes, sir.

Appendix M

A. It is a nice size for the Village of Stratton. Size-wise?

Q. Yes, sir.

A. It may be 100 by 200. You have play toys for the children, the swing sets, little animals on springs. We have a tennis court and a basketball court.

Q. Did you have anything prohibiting anybody from canvassing or soliciting at the playground?

A. No, sir.

[111] Q. 10K, that's the entrance to the Fifth Street playground, correct?

A. Yes.

Q. Those are the hours in which they are open on this sign?

A. Yes, sir.

Q. 10L, that is the Fifth Street playground, correct?

A. Yes.

Q. A portion of it anyway?

A. Parts of it.

Q. Now there's another location called Stratton Park.

Appendix M

A. Yes, sir.

Q. Can you describe for us how large an area that Stratton Park encompasses in the village?

A. About ten acres.

Q. And 10M is a picture — What is that?

A. One of the shelters.

Q. A shelter, and what is 10N?

A. It's a shelter.

Q. And N.

A. Oh, N, I am sorry, that is a picture of all the smaller shelters throughout the park.

Q. What is 10O?

A. An entrance into the Sammis plant at Ohio Edison.

Q. Is it fair to say that anybody can solicit at the [112] playground or the park?

A. Yes.

Q. The largest employer in town is at the Sammis plant of Ohio Edison?

A. Yes, sir.

Q. Can anybody solicit there?

A. Yes, sir.

Q. You don't need a permit?

A. No, sir.

Q. 10P, it's a gate to Stratton Heights Road?

A. Yes, sir.

Q. Again you don't need a permit to be there?

A. No.

MR. CANTOR: You may inquire.

THE COURT: Thank you, counsel.

You may cross-examine.

MR. POLIDORO: Thank you, judge.

CROSS-EXAMINATION

BY MR. POLIDORO:

Q. Good morning, mayor.

A. Good morning, sir.

Q. Mayor Abdalla, the street signs that you testified about with respect to no solicitation coming into the village and exiting the village, when were they first put [113] up?

A. They have been there as long as I can remember, sir.

Q. About how long is that, sir?

A. It would be 30, 40 years.

Q. I turn your attention, sir, to Exhibit 35 in front of you please and ask that you turn to them. Sir, do you recognize Exhibit 35? And I ask you to look through all of them please.

A. Pardon me?

Q. I ask you to look through all of the exhibits please and ask if you recognize them, sir?

A. Yes, sir.

Q. Do you recognize those?

A. I recognize them from seeing them in court and in deposition before, yes, sir.

Q. Is it fair to say those are requested permits?

A. Yes, sir.

Q. And is it fair to say that the permission that was requested in those permits was granted, correct?

A. Yes, sir.

Q. The permits that the village issues are pre-signed by yourself, correct, mayor?

A. Yes.

Q. It's also correct that you have no documentation with respect to the percentage of the population in the village [114] of Stratton that are retirees, correct?

A. How is that again?

Q. You have no documentation?

A. No, nothing in writing.

Q. Nothing in writing. And apart from the senior citizens list that you provided the Court, do you have anything in writing with respect to how many senior citizens actually reside in the Village of Stratton?

A. Not in writing, no, sir.

Q. If one of Jehovah's Witnesses requested a permit to go from door to door from the hours of nine o'clock in the morning until seven o'clock in the evening, would they be granted one?

A. I would grant them one and explain to them it's nine to five, sir.

Q. My question, though, is a little more specific. If a Jehovah's Witnesses requested a permit to go door to door from the hours of nine in the morning to seven in the evening, would they be granted one?

A. No, I wouldn't grant them one. I would have to check with my solicitor.

Q. The answer to that is no, sir?

A. No, sir.

Q. Do you know how an individual would be able to reach someone door to door who was not home between the hours of [115] nine to five?

A. Yes, they can leave a card and tell them to call back if they are interested.

Q. Is there any other way that they can be reached?

A. Not to my knowledge, no.

Q. You have no documents with respect to any complaints concerning the activities of Jehovah's Witnesses in the Village of Stratton, correct?

A. Nothing in writing, no, sir.

Q. And you would agree with me, sir, there's not too much crime in Stratton, correct?

A. You're correct, no.

Q. That to the best of your knowledge, there is no crime directly related to door-to-door activities, correct?

A. Correct.

Q. That there are no burglaries?

A. Correct.

Q. Again with respect to door-to-door activity, no violent crime, correct?

A. Yes, sir.

Q. There is no documentation with respect to any crime with respect to door-to-door activities in con games, correct?

A. Correct.

Q. And also there is no documentation with respect to [116] any crimes committed in door-to-door activity with reference to any schemes in which people were bilked, correct?

A. Yes, sir.

Q. You have never received a complain as a mayor, have you, sir, with respect to an individual who called on a door with a no trespassing sign?

A. Say that one more time please?

Q. Certainly. You have never received a complaint that someone called on a home that had posted a no trespassing sign?

A. No, I haven't.

Q. You have never received a complaint of an individual, by a homeowner, of someone calling on a home with a no solicitation sign, correct?

A. To my knowledge I have had complaints, but I don't know if they had no solicitation signs or not, but I have had complaints.

Q. All right, sir. I am not speaking about the complaints of individuals going from door to door. My question, sir, specifically is: Have you ever received a complaint of an individual calling on a door that had a no solicitation sign posted?

A. I answered that. I said no. But I don't know if anybody called complaining they had the sign or not had the [117] sign.

Q. Sir, your role as judge of the mayor's court, what do you do?

A. In mayor's court I hear mostly traffic cases.

Q. Do you serve as the judge?

A. Yes, sir.

Q. And as the judge, do you interpret the laws that are before you, the ordinances?

A. The village's ordinances, yes, sir.

Q. Now you heard your counsel speak about the Kirby vacuum cleaner incident.

A. Yes, sir.

Q. Do you remember that? And you served as the judge of the mayor's court for that incident, correct, sir?

A. I presided over the court.

Q. And the individuals — There were three, is that correct, sir?

A. Yes, sir.

Q. The individuals were charged with violating ordinance 1998-5, which is the ordinance that is the subject of this inquiry, is that correct, sir?

A. Correct.

Q. Do you have that ordinance in front of you, sir? Maybe —

THE COURT: Let me draw a distinction, counsel, in [118] the questioning. The mayor in Ohio holds two very different functions. He is an executive officer, or she is an

executive officer, and is required to enforce the peace. There is another role that you are inquiring into now which has to do with the mayor as a judicial officer. You walk into the issue of judicial immunity if we're into that aspect of the function here?

MR. POLIDORO: I am really going into his understanding of the ordinance that is applying in both capacities, judicial as well as executive. However, I can limit my questioning to the executive role, if Your Honor desires.

THE COURT: I think that is legally necessary.

MR. POLIDORO: I will do so, judge.

BY MR. POLIDORO:

Q. Mayor Abdalla, were you involved in the charging of those three individuals in the Kirby vacuum cleaner incident with a violation of ordinance 1998-5?

A. Did you say would I charge them?

Q. Yes.

A. No, the police chief charged them.

Q. How did that occur?

A. How did it occur that they were charged?

Q. Yes.

A. I got a call, I think I said the name was Mrs. [119] Householder, that someone was there trying to sell — trying to do something with their carpet so they could come in and clean it. At that time I didn't know who they were. I called the chief. I called the sheriff's office, asked the chief to have them — to have the chief get ahold of me. I explained to him, when he approached me, the circumstances of the telephone conversation, and I says, find them and take them to the mayor's office and call me when you have them, which he did.

And then we in turn explained the ordinance to them. They claimed they had never seen the ordinance. They were offered, if they wanted to get a permit, they can get one. And I had them post a $100 bond, told them that the hearing was set on the next council meeting date, and they were more than welcome to appear with their counsel, their attorney.

Q. So you personally had this conversation with the three individuals prior to them being charged?

A. Yes, sir.

Q. Did they get a little obnoxious with you?

A. Yes, sir.

Q. When using the term "a little obnoxious," what do you understand that to mean?

A. Their tone of voice they was raising. They told me they are entitled to come in. I told them that they are [120] entitled if they had a permit.

Q. On what basis did they tell you they were entitled to come in?

A. First they said it was on the First Amendment. And I says, yeah, but you are not preaching anything. Then I took my position, especially at that time of the day, why I like to have everybody register.

Q. And after they had that discussion with you, who set the $100 bond?

A. I did.

Q. And why was that, sir?

A. I thought it was a fair price for them to pay.

Q. Why did you feel it was necessary to set a bond?

A. To make sure they appeared at their hearing date.

Q. And what was your understanding of the violation that they had committed as a mayor? What was your understanding of the violation?

A. That they were soliciting but without a permit.

Q. What were they specifically doing?

A. Canvassing, going door to door, or soliciting, going door to door, whatever choice of words that you use.

Q. Sir, when you use the terms "canvassing" and "soliciting," in your mind they refer to the same activity; is that correct?

A. Yes, sir.

[121] Q. Is it fair to say under ordinance 1998-5, when it speaks about cause, that you don't know what that refers to, correct?

A. Pardon me?

Q. Yes, sir. We're speaking about ordinance 1998-5. Section 116.01, it speaks about an individual who would canvass or solicit to promote, selling and/or explaining any product, service, organization or cause. Is it fair to say, sir, that you don't know the definition of the word "cause" under that ordinance, correct?

A. Cause is you canvassing everybody, talking to everybody.

Q. What I am asking you, is it fair to say that the definition of that word "cause" under your ordinance, you don't know the meaning of that, correct?

A. I thought I knew it and just explained it, how I understood it to be, sir.

MR. POLIDORO: Counsel, do you have a deposition that you can give to your client?

BY MR. POLIDORO:

Q. Mayor, I am going to ask you on page 23 — Sir, that deposition has your name in front?

A. Yes, sir.

Q. I ask you to turn to page 23 and ask you to review line 7 through line 9.

[122] A. Yes, sir.

Q. Let me ask you the question again. Do you have an understanding of what the meaning of the word "cause" is in the ordinance under 1998-5?

A. This answer says, I don't know.

Q. Now, sir, the ordinance calls for you to administer — actually issue the permit, correct?

A. Yeah, I sign it, yes, sir.

Q. And when we speak about the section of the ordinance, I'm speaking about section 116.03, subdivision (b)(6), it says that the individual seeking the permit will provide such other information concerning the registrant and its business or purpose as may be reasonably necessary to accurately describe the nature of the privilege desired.

It's fair to say, sir, that you do not know what that refers to, correct?

A. I think I know what it means.

Q. Sir, I ask you to turn to the bottom of page 28. If you will again review with me, begin your review with line 23 and continue to the top of page 29, line 5.

A. I don't understand, sir.

Q. Meaning, sir, that you don't understand what other information the ordinance is requesting? Is that fair to say that that part of the statute you don't understand?

A. I think I understand the statute. . . .

* * *

[127] * * *

Q. Are you aware that the ordinance gives you the authority to deny the granting of a permit?

A. Yes, sir.

Q. Upon what basis would you exercise that authority?

A. Just like I stated to you.

Q. Apart from that, any other basis?

A. Not at this moment right now. I'm not saying that it can't be, but right now, no.

Q. In your understanding as a mayor, how does the activity of Jehovah's Witnesses in going from door to door to speak to householders about the Bible fit within the ordinance?

A. How do they fit within the ordinance?

Q. Yes, sir.

A. To me they are soliciting, sir.

Q. How so, sir?

A. They are going from door to door canvassing, soliciting. And people call, report the disturbance they are having with them, and I ask them to leave; but they never ask for a permit. If they got a permit, they can go ahead, sir.

Q. I appreciate that, sir. How are they soliciting, sir?

A. In my opinion they are going door to door, and [128] they're preaching their so-called gospel; and sometimes, like the lady stated earlier, at the end of the conversation they solicit funds.

Q. So-called gospel means what, sir?

A. Pardon me?

Q. So-called gospel means what?

A. What they're preaching, their gospel; and at the end of their preaching, their service, what they're doing, they ask for money.

Appendix M

Q. So is it the mere fact that individuals are going from door to door that in your mind makes them fall under the ordinance?

A. Yes, sir.

Q. Is it fair to say, sir, that the problems that the Village of Stratton have encountered with respect to Jehovah's Witnesses going from door to door is merely the aggravation of the citizens and nothing else?

A. The citizens complaining to me, yes, sir.

Q. So apart from the aggravation of the citizens, is there anything else?

A. Not right now, no, sir.

Q. You've heard Mrs. Tuckosh testify in court this morning, correct, sir?

A. Yes, sir.

Q. Was her account accurate?

[129] A. Yes, sir.

Q. My final question to you, mayor, is it's your belief that no one who lives in the Village of Stratton wants to listen to Jehovah's Witnesses, correct?

A. From the comments, the calls that I got from people, the majority of them did not want them bothering them.

Appendix M

Q. But I am asking you, it's your understanding that no one in the village wants to listen to Jehovah's Witnesses, correct?

A. Yes, sir.

MR. POLIDORO: Judge, I have no other questions.

THE COURT: Thank you, counsel.

You may redirect, if you wish, Mr. Cantor.

MR. CANTOR: Thank you.

REDIRECT EXAMINATION

BY MR. CANTOR:

Q. During the course of your cross-examination there was some discussion about the bond that was set in the Kirby vacuum cleaner case. Could you tell us where the individuals were located, where did those folks live that you required them to post bond?

A. They were nowhere in the immediate area. They was — I think one was from Pennsylvania. The addresses are listed here somewhere. I just turned the pages.

[130] Q. I am going to ask that you take — I guess it's the white book.

A. The white book.

Q. And go to Exhibit 33.

A. 33.

Q. Yes, sir.

A. Yes, sir.

Q. What is Exhibit 33?

A. It's a list of the names and addresses of the citizens of the village.

Q. Are these made available to each solicitor who comes to the village?

A. Yes, sir.

Q. Now with regard to the applications for soliciting that have previously been filed with the village, has anybody manually written down all the names of every resident?

A. Yes, sir, my village clerk.

Q. I am talking about in the application form. No one in the application form has written down all the —

A. No.

Q. What do they write?

THE COURT: I don't mean to interrupt, but the ordinance doesn't say that, does it?

MR. CANTOR: Please?

[132] Q. With regard to Exhibit 33, who maintains that listing?

A. The village clerk.

Q. And does the village clerk make that list available to anyone?

A. To anyone that requests it, yes, sir.

Q. And are these documents attached to any forms that the city provides?

A. Yes, sir.

Q. Through what?

A. Whatever the permit, the application, you have the list of all the village residents, their addresses, names and addresses.

MR. CANTOR: Thank you, Your Honor. Nothing further.

THE COURT: Anything further, counsel?

MR. POLIDORO: No, Your Honor. Thank you.

THE COURT: Thank you, Mayor Abdalla. You may step down.

* * * *

APPENDIX N — EXCERPTS FROM TRANSCRIPT OF TESTIMONY OF FRANK J. BRUZZESE, SOLICITOR DATED JULY 27, 1999

[commencing at page 135]

* * *

FRANK J. BRUZZESE

being first duly sworn, as prescribed by law, was examined and testified as follows:

DIRECT EXAMINATION

BY MR. CANTOR:

Q. Mr. Bruzzese, would you please state your full name?

A. Frank Joseph Bruzzese.

Q. And your business address?

A. Post office box 1506, 300 Sinclair Building, Steubenville, Ohio 43952.

Q. And what is your occupation or profession?

A. I am an attorney-at-law.

Q. Would you briefly explain to us your educational background?

A. I graduated from Steubenville High School in 1967, went directly to Johns Hopkins University in Baltimore, Maryland, where I graduated four years later with a [136] bachelor of science degree, then proceeded from there to the Claude W. Pettit College at Ohio Northern University in Ada, Ohio, which I graduated in 1974 with a juris doctorate degree.

Q. Upon your completion of your education at law school, did you come to be admitted to the Bar of the State of Ohio?

A. I did, in 1974.

Q. From 1974 to the present have you been authorized to practice law within the State of Ohio?

A. Yes, sir, I have.

Q. Directing your attention to the Village of Stratton, when did you begin your relationship with the Village of Stratton?

A. I became the village solicitor in June of 1975.

Q. Have you been the village solicitor from 1975 to the present?

A. Yes, sir.

Q. During that period of time beginning in 1975 to the present, were there ordinances of the Village of Stratton dealing with solicitation?

A. Yes, sir, there were.

Q. And the sign that is outside on the borders of the village, that's a no solicitation, prosecution will occur, are you familiar with those signs?

[137] A. Yes, sir. There has always been, since my time there, always been a sign at the north entrance to the town and the south entrance to the town that say, no solicitation without permit. Violators will be prosecuted.

Q. Beginning in 1976 — excuse me, 1996, did there come a time which, I will refer to as the first generation of the ordinance that we have under discussion, came into play?

A. Yes, sir.

Q. Can you briefly explain to us what was the reasoning behind the initiation of the legislation for the Village of Stratton in 1996?

A. The village council wanted me to draft legislation that would regulate the practice of soliciting, canvassing, hawking, peddling, so forth, in the territorial limits of the Village of Stratton, Ohio, based on recurring incidents and problems people had had over the years; and when I researched the problem in the village ordinances, I found just the old original ordinances that formed the village government from 1949. I felt they were woefully inadequately. So I redrafted an ordinance that became effective in 1996.

Q. Can you briefly describe for us the information that was discussed with council concerning the initiation of the 1996 legislation?

[138] A. Yes, sir. We discussed with council that the types of problems that had recurred over the years could in fact be regulated under an Ohio statute and under the Ohio Constitution.

Q. Let's stop right there. What problems are you making reference to?

A. There had been problems with people going door to door at night in the late night hours, as late at 11:00 p.m., which caused some fear in some citizens, especially the older citizens or the people who lived alone. There had been incidents of people purporting to be legitimate salesmen who turned out to be less than legitimate.

Q. Can you give us some examples of that, sir?

A. Yes, sir. The type that I am sure you are familiar with, the aluminum siding, high-pressure salesmen, the people who purport to be in the construction business and take a down payment, representing that they are taking in advance the payment of money for materials and then never show up. There have been incidents where people, although their purpose may have been legitimate, made the homeowner feel that the homeowner couldn't get rid of them, and they felt pressured. Things like that.

Q. In addition, so I understand the duties of the solicitor within the Village of Stratton, why don't you explain to us what those duties actually are?

[139] A. My duties as solicitor?

Q. Yes, sir.

A. I think in general I can say that my duty as solicitor is to be the attorney for village. That would include the specific duties of giving legal advice to the council, mayor and other village officials when they ask for it in their administrative capacities. My duties would include the drafting of ordinance legislation and resolutions. My duties would include serving as the prosecutor in the mayor's court and essentially taking care of any legal matter, whether it would be legal advice or litigation, including civil litigation, that may arise for the village.

Q. What about giving advice to the law — You have one police officer within the village, correct, during your tenure?

A. I do that when I'm asked for advice.

Q. And you advise him when necessary?

A. Yes, sir. I have had calls at night on what to do, and I give advice.

Q. And do you review police reports?

A. I do.

Q. With that as a background, and you have identified certain events that have occurred within the village, is there anything unusual about the nature of those crimes as [140] it relates to the geographic location of the village as it relates to crime?

A. Yes, sir, I think so. The Village of Stratton, Ohio, is an easy target for the flimflam man. It is an easy target for the thief or the transients, and that's true because it is a very small town, I think you could throw a baseball across with two throws, right on the major highway that's the north and south route, State Route 7. So there's easy in, easy escape from the Village of Stratton. There's only one police officer. It's got a high contingent of elderly and retired citizens, and I think it's the model of a target for crime that is historically related to people who purport to be door-to-door canvassers or solicitors.

Q. Now you indicate that you provide advice to the village council. At those village council meetings are there monthly police reports?

A. Yes, sir. As a matter of fact, it's twice a month.

Q. Twice a month, excuse me.

I am going to ask you to look at the white exhibit book and ask that you go to Exhibit 12.

A. Yes, sir, I have that in front of me.

Q. And what is Exhibit 12?

A. Exhibit 12 is one of the monthly police reports from August of 1996 for the Stratton police department.

[141] Q. And what, with regard to the issue of soliciting and no permits, was unusual with regard to that report?

Appendix N

A. In this exhibit there are — there's a report from August 5, 1996, at 8:53 p.m. that there were — a complaint about unauthorized solicitations, and the subjects were advised they needed a proper permit, and they would get one before further solicitation was allowed.

Q. Let me stop at this point for a moment.

A. All right.

Q. Has there been some discussion or advice that you have given dealing with whether or not you immediately prosecute or to give information when you find a violation of this nature?

A. Yes, sir, I have advised the chief of police and the mayor that we should take what I call the informational approach, which is when you come upon a person who is soliciting unauthorized, without a permit, you should first advise them that we have an ordinance that requires a permit, tell me or show them where to go to get a permit; and then as long as they're willing to go get the permit, there should be no citation, no arrest and no prosecution; and that's been our policy.

Q. Now with regard to that first, for Exhibit 12, that policy was followed, correct?

A. Oh, yes, sir.

* * *

Appendix N

[143] * * *

Q. With regard to the month of October, 1996, were there any difficulties with regard to permits?

A. Yes, sir, there is a report from October 17 of 1996, 5:10 p.m., in reference to a complaint about two subjects in a blue pickup truck soliciting. They were located and advised to obtain a permit, or they would arrested in the future for soliciting without a permit.

Let me see if there's any others. I'm not seeing any others on the October, 1996, report.

Q. Let's go to Exhibit 14 for the month of March, 1999.

A. There's a second page to Exhibit 13. Let me look.

Q. Yes, sir.

A. Okay. Exhibit 14?

Q. Yes, sir, what date is that?

A. That's for March of 1999.

Q. Again, this is a police report prepared by the chief of police?

A. It is, and it notes on March 2 of 1999 at 7:10 p.m. he cited, the chief cited, three individuals for soliciting without a permit.

Appendix N

Q. Is this the group commonly referred to as the Kirby vacuum cleaner case?

A. Yes, sir.

Q. Any other incidents in the month of March, 1999?

[144] A. Let me just check. I'm not seeing any. Am I missing any?

Q. Let's go to 15.

A. I'm looking at Exhibit 15.

Q. That's a report dated April 19, 1999, from the chief?

A. Yes, sir. It contains a police report from April 16, 1999, at 1:27 p.m. in the afternoon in regards to three or four subjects going door to door on Second Avenue near the post office, and it was determined that they were trying to locate the owner of a vehicle with a for sale sign that was parked.

Q. Let's go to Exhibit 16.

A. I'm not sure if there are others. Okay. I'm looking at Exhibit 16.

Q. That's May, 1999?

A. Yes, sir. There's a May 20, 1999, report at 11:15 in the nighttime about three subjects soliciting on First Avenue. The chief contracted them and informed them of the requirement to obtain a permit.

Appendix N

Q. There came a time when you started receiving communications with a representative of Watchtower?

A. Yes, sir, that's true, Mr. Moake.

Q. And that correspondence is identified beginning at Exhibit No. 17?

A. I'm looking at Exhibit No. 17 now.

[145] Q. Now would you basically explain to us why were you communicating with Mr. Moake?

A. Because after the passage of the 1996 ordinance, Mr. Moake sent me a letter on behalf of the Watchtower organization in New York, criticizing that ordinance and contending there were aspects of it that were unConstitutional under the First Amendment.

So I began corresponding with Mr. Moake in order to address his concerns and correct any deficiencies in that ordinance that he would point out to me from the Constitutional aspect and try to arrive at an ordinance that was effective and Constitutional and satisfactory to Mr. Moake and his organization.

Q. Now with respect to those communications, those communications are identified in Exhibits 17 through 24; is that correct?

A. Yes, sir. Exhibit 17, 18 — yes, sir, you are correct. All those exhibits are the correspondence that I am referring to.

Q. Did you have any telephone communication with Mr. Moake?

A. If I did, I don't recall any.

Q. As a result of these letters going back and forth between you and Mr. Moake, did you make changes to the 1996 ordinance?

[146] A. Yes, sir, I did.

Q. What changes did you make?

A. I made a variety of changes. First of all, from the outset I took Mr. Moake's criticism and based on the research that I did starting with the case law he gave me, decided that if there is anything consistent in the Constitutional case law that I was reading, it is that the discretion in the village officials should be narrowed and reduced to the extent reasonable and at the same time leave the judgment and the decision making to the private property owner. As a matter of fact, that that would be the best possible regulatory scheme.

So I created the concept of the owner's registration form as a form of communication — well, as a form to be used by the owner to exercise his decision and to also communicate to the would be solicitors and canvassers.

And then the other end of that was to reduce the amount of discretion that the village officials, including the mayor, would have, so that I would make the permit automatically triggered by a completed information form.

Mr. Moake also criticized — Essentially Mr. Moake was criticizing substituting the judgment of the officials for the citizens. So I created a way that the citizen would exercise his own judgment over his own private [147] property and reduce the amount of judgment that the officials could impose on either the would be solicitor or the citizen.

I remember Mr. Moake also criticizing a $10 fee that we had for the registration, and I deleted the fee in the end, recognizing his point; and although I found support in the law for that fee, I just considered it unnecessary. So I deleted the fee.

And I'm sure there are other things that are — I think I summarized my changes in my last letter to him. If I could just look at that.

Q. Exhibit 24.

A. Oh. One of his criticisms was he thought it would be burdensome for a person to have to actually walk around the town and look at all of the addresses and then write them by hand into his registration form when he was registering for a permit.

Q. How do you answer that criticism?

A. As I pointed out to him in my September 9 letter, the solicitor would not have to, with his own hand, write those addresses, nor would he have to walk around the town to look for all the addresses. Because Stratton is such a small town with only 70 houses, and the rest being trailers and

trailer courts, it was an easy matter for the village to create a list of residence addresses with a designation [148] telling you which ones are homes, which ones are businesses, and which ones are churches and so forth.

And when the would be solicitor or canvasser goes in to register, he has a choice. If he only wants to go to a few houses, he can write them in by hand. If he wants to go to a bunch of houses and he wants to take the time, he can write them in by hand, and we gave him space for that. But his other options would be to take the list that the clerk makes available and check off from that list the ones he wants to go to; or if he wants to go to them all, write in on the blank of the form, I want to go to all the ones on the attached list, and attach the list.

Q. So it's incorporated by reference?

A. Yes, and it's a tool that the owner can use.

Q. How is this different from a phone book?

A. It isn't. The information on the list that we make available to the registrant is in the phone book and it's also in the directories, or sometimes are called the crisscross directory.

Q. Let's stop at this point. What is the crisscross?

A. To me it's like a phone book, but you look up the street and address, and it gives the name of the person; whereas the phone book, you look up the name and then it gives the street, the address and the phone number.

Q. Based on your review of the records of the village [149] concerning those who made application for a permit, do you know of anyone who has written every single number or street address?

A. No, sir, the opposite is true.

Q. How was the ordinance complied with in that respect?

A. All of the people who have applied since this ordinance has been in effect have written words to the effect: I want to go to all of these addresses on the list, and that's fine. They get a permit.

Q. Any other changes based on your communications with Mr. Moake?

A. Let me just review my letter. Oh, he was the one that first — Mr. Moake —

Q. Go ahead please.

A. Mr. Moake was the one who first suggested that we incorporate the idea of a sign posted on the house of a person who didn't want solicitation. So I changed one of my earlier drafts to include the no solicitation sign being posted on a house, meaning that now I changed the ordinance so that the owner would have to do two separate and distinct things to prohibit people coming to the door of his house. One would be to file his registration form with the mayor's office. And two is he would also have to post a sign that says no solicitation on the residence in a position where it is visible from the sidewalk so that the [150] would be solicitor or

canvasser could know before he set foot onto private property that this is one of the places he is not welcome. It would serve as a reminder.

You might come in and get a registration form and register and look at the forms in the clerk's office. If you don't carry them with you, when you get out on the street, you might forget which one said no. So we double covered it by putting the sign on the house, and that's a reminder to the would be solicitor.

Q. At the time that you and Mr. Moake were writing letters back and forth were you aware of any writings that emanated from the Watchtower group to Wellsville which would indicate they did not have to recognize or accept the no solicitation sign on a home?

A. No, sir.

Q. Now one of the questions that the ordinance talks — one of the issues that the ordinance discusses is: When can you solicit? When can you canvass? What days of the week are identified within the ordinance?

A. You can canvass seven days a week, Sunday through Sunday.

Q. Is there an hour limitation?

A. Yes, sir, there is a separate ordinance that limits the solicitation and canvassing time between the hours of 9:00 a.m. and 5:00 p.m.

* * *

[153] * * *

Q. In regard to your information that you provided council, what information was that?

A. I reported to council periodically that I remained in contact with the Watchtower organization's attorney and that we were working it out; and somewhere, I don't know if it's in this correspondence because I would need to reread it, that as far as the Jehovah's Witnesses organization, that they would be happy to call ahead before they came to town while we were working out an ordinance. I reported that —

Q. Excuse me. Let me stop at that point. Would you explain that, your last remark again? That they would be — this call ahead?

A. If my memory serves, somewhere in the correspondence between myself and Mr. Moake he was saying their organization would be glad to call ahead to let the officials know they were going be in town, and I did report that to the mayor and council saying, as I'm trying to draft an ordinance that will accomplish our goals and at the same time be acceptable to the Watchtower organization; there should be no problems because they will call ahead if they come.

Q. Was this communication with Watchtower and Mr. Moake occurring in the middle portion of 1998?

[154] A. It's during whatever this correspondence time is from his first letter to September —

Q. The first letter that I am looking for in your writing is April 17, 1998.

A. Which exhibit was that?

Q. Exhibit 17.

A. 17.

Q. Does that help refresh your recollection?

A. Well, he had to write me one before this because I'm referring to his letter of April 10. I'm responding to it, but let me see — I know for a fact it's somewhere in there. Let's see here. Look at his April 27, 1998, letter. That's your Exhibit 18.

Q. Yes, sir.

A. It's addressed to me, and we are already into this correspondence now. The last paragraph on the first page of his letter says, "In many communities in this country, as a courtesy to local law enforcement personnel, Jehovah's Witnesses voluntarily give the municipality advance notice by telephone that they would be conducting door-to-door ministry on a particular date and in a particular area. As a way to resolve the current matter in Stratton, our local congregation would be willing to contact the village police department by telephone before conducting door-to-door ministry in the village. The caller would state the [155] approximate time that such ministry would take place, the approximate number of people involved and the general

location where they would be. In this way your police would be aware of their activity on that particular day in question. If the village would agree to this approach, then the issue of whether or not section 116.01 is unConstitutional would not need to be determined."

And then he says, to indicate our good faith in this matter until we hear back from — me, he will — we will advise our local congregation not to conduct door-to-door activity in the village and to restrict ministry activity to visiting residences to which they have been invited.

Now I'm pretty sure that it's this that I am thinking of when I have in my memory, where I was reporting to the village officials, while we're working this out, there won't be a problem. People from the Jehovah's Witnesses organization will call in advance.

Q. You were present in the courtroom during the testimony of Tammy Tuckosh?

A. Yes, sir, I was.

Q. And that occurred after the — you heard the events which she discussed, as to 1998, were going on or about the same time as your communications with Mr. Moake, is that correct?

[156] A. Yes, sir. I think almost exactly at that time. It was before this ordinance in question had been passed, she had her incident, but right about the time I was understanding nobody would come without calling in advance.

Q. And that information had been communicated to the mayor?

A. It was communicated by me to the mayor and the council, that they would call before they come.

You were asking me about what we discussed during the legislative drafting process.

Q. Yes.

A. There was more.

Q. Okay. What more?

A. Well, we discussed the need for the ordinance, the types of problems, the typical scenarios of the flimflam man, but even the legitimate people, the annoyances caused when they come after dark or during the dinner hour, and discussing what would be the best way to regulate, at the same time I was trying to educate the officials on Constitutional issues and the fact that we had to treat everybody equally and make permits available easily and those sorts of things.

Q. Did you make a broad statement to council concerning who could apply and receive such a permit?

A. Yes, sir. I was trying — Right at the end, when we [157] were in the act of passing, either when we sunshine-ed this legislation or when we passed it, I remember making a big speech on the council floor to say — to pound home this point. I said something almost exactly like this. Let's get

this straight. When the little pig-tailed, freckle-faced girl scout comes to sell girl scout cookies, she gets a permit. And they all shake their heads. Then I say, when the Nazi party comes and asks for a permit, they get a permit. The girl scout with the pig tails is the same as the Nazi party, same as the Ku Klux Klan. Everybody gets a permit. And the only thing they have to do is complete the form. And I used the phrase "a completed information form is an automatic trigger." And I think I used the same phraseology to Mr. Moake. The completed form — We are not going to decide: Are you bad? Are you good? If you complete the information, it's an automatic trigger. You get the permit in the absence of fraud.

Q. What does the word "fraud" mean to you?

A. Falsehood, misrepresentation, lying in some material way.

Q. Did you explain to council what you meant by that provisional thing?

A. Yes, sir, and I think I gave examples.

Q. Did you also explain to the mayor what his rights or [158] responsibilities — and responsibilities would be with regard to fraudulent activity and fraud in the making of an application?

A. Yes, sir, and I would consider it more than explaining. I think I pounded away at the fact. Give them a permit, and then unless it's very clear to you that there is some fraud here, you just give them a permit, and we're going to leave it up to the property owners to make their own decision, and

we are not going to listen to the property owner cry if he failed to avail himself of his right.

Q. Are you familiar with phone calls being made by citizens of the village concerning people walking through the community?

A. Yes, sir.

Q. How are you familiar?

A. Because it happens all the time. You experienced it. The first time you came to town with Ms. Brey to meet with us, before we got to the municipal building there had been at least three, maybe five calls that there were strangers in town walking around, and people were worried and wanted to know who they were and wanted the mayor's office to check it out.

I can't think of an exception, maybe one got by; but where the solicitor type canvassers, the salesmen or [159] the Jehovah's Witnesses or anybody has gone door to door in the town, there are always calls to the mayor. The mayor's phone lights every time, and so does the chief of police. They are not always complaints that they want them arrested, but the phone lines light up. If there is a stranger in Stratton, the mayor gets a call.

MR. CANTOR: One moment.

BY MR. CANTOR:

Q. You have had some discussion today concerning fraud in the Village of Stratton itself. As the solicitor, the prosecutor, of the village do you have information that you shared with council concerning fraudulent conduct or schemes or difficulties within the Ohio valley that might cause a problem within the village?

A. Yes, sir, I discussed with the mayor and council on several occasions, as a matter of fact occasions throughout the years even before this ordinance was in effect, not only in general how fraud occurs but specifically how it's occurred with examples in the Ohio valley; and then lastly I have a recollection of instances in the Village of Stratton.

Q. Let me ask you how do you know about instances in the Ohio valley? How is that made known to you?

A. The best way that I can recollect is periodically there are alerts or reports on the news where one of the [160] police departments from one of the towns reports there are two guys going up and down the valley. Here's their MO.

Well, the day my — the day before my deposition was taken in this case there was exactly that kind of report. TV 9 had a report that two guys were going from south to north, from Wheeling, had been to then the Weirton/Steubenville area, were proceeding north directly to Stratton, posing to be in the construction business. One guy would distract the homeowner, talking about, well, we can fix your roof, or do this or that, while the other guy would go through the house

and grab cash or items of value and steal it. So those were the general kind of alerts that we have gotten over the years through the news media.

There are alerts we will get through the sheriff's department, be on the —

Q. Which sheriff's department are you referring to?

A. The Jefferson County sheriff's department. I personally know things that have happened outside of Stratton, like in Steubenville where I live, but also instances in Stratton itself.

Q. Let's talk about that. How far is Steubenville from Stratton?

A. About 12 miles. It takes me about 10 to 15 minutes to get to council meetings.

[161] Q. So the record is clear, the Ohio valley means what?

A. The Ohio valley to me means the southeastern portion of Ohio along the Ohio River where it borders on the northern panhandle of West Virginia, as far south as Wheeling, West Virginia, up to East Liverpool, Ohio.

Q. Now those instances that you have recounted in Steubenville and the village?

A. Well, we had one — It's hard to do them in order, but I clearly recall a incident in the village within the last year or year and a half, like a 93-year-old citizen had these people

come in, claim to be in the construction business. They said they had noticed defective tiles on his roof that would cause leaks, and they would repair them for $10 a tile.

They were on the roof in progress when either the mayor or the chief, and I forget which, arrived — and I can't remember if he was called to arrive, but he arrived. When he was told that these people were going door to door offering this service, he asked them if they had a permit. I believe this was one of the instances where the guy claimed, because we have had instances where they will look the mayor right in the face and say, yeah, I got a permit from the mayor, not realizing they are talking to the mayor, and then jump in their car and speed out of town.

But in this case, when advised they needed a [162] permit to do that, they jumped in their truck and took off; and I think the Wellsville police department apprehended them later, and they turned out to be what the Wellsville police department reported as gypsies, were going up working this scam where they were taking advantage of the elderly citizen by overcharging him for a bunch of construction that he didn't need.

We have had the blacktop salesmen that the mayor may have mentioned. We have had cases where — There was a Bible salesman. Oh, the perfume salesman. We have a citizen in town that — I am not sure the way to say it. Let's say he doesn't have the education that a lot of people have or the acuity that comes with education, that was taken advantage of by a guy purporting to be a perfume salesman, and he gave him some little worthless bottle of perfume for like $45

or $50. He complained or his family complained and the mayor had to go down to attend to that, and I think he worked a refund for that guy.

There have been other instances I am sure, and I am sure it will come to my mind.

* * *

[165] . . . five different incidents involving unauthorized solicitations as contained in the records of the Village of Stratton. Do you recollect that in your testimony, sir?

A. The ones that I pointed out from the police reports?

Q. That's right.

A. If there were five, yes, I wasn't counting.

Q. Those were the entirety of the records that the Village of Stratton has with respect to problems they have had concerning unauthorized solicitations, correct?

A. That would be the entirety of any on-paper record that I know of.

Q. Fair enough, sir. Now the chief law enforcement official in the Village of Stratton is Michael Wilson?

A. That's the chief of police, yes, sir.

Q. Is he the sole law enforcement individual in the Village of Stratton?

A. We have an auxiliary police officer that pinch hits as a relief police officer.

Q. Isn't it fair to say that he has the primary responsibility for law enforcement in the Village of Stratton?

A. Yes, and specifically in this ordinance, this ordinance refers to the chief, as the person who goes out and abates the nuisance.

Q. Thank you. He's sitting outside right now, isn't he?

[166] A. I don't know if he is or not.

Q. Was he here this morning?

A. Yes, I have seen him here in town.

Q. Have you seen him outside the courtroom this morning?

A. Yes, sir, I have.

Q. Did you ever receive a correspondence from Mr. Moake to the extent of thanking you for satisfying any Constitutional objections he had seen with respect to the ordinance?

A. I think he did like say, this was a good change. Thank you for doing that. That addresses that concern. I don't think he ever got to where he conceded the applicability of the ordinance to him. But at the end of the correspondence I was clear that I had satisfied all his Constitutional objections to the ordinance, and I do think there were actually places in

there where he complimented us and said, that's really good for the First Amendment.

Q. I am not suggesting, sir, that any modification you made to the prior ordinance is inappropriate. What I am asking you is a slightly different question, sir.

A. I am sorry.

Q. I apologize. It may be the framing of the question, sir. Did you see any correspondence from Mr. Moake where he said to you with respect to ordinance 1998-5 that it satisfied all of his Constitutional objections?

[167] THE COURT: I've read the letters —

MR. POLIDORO: Thank you. I will move on, judge.

THE COURT: Some modifications were made to satisfy; some were not.

MR. POLIDORO: Thank you, judge.

BY MR. POLIDORO:

Q. Sir, wouldn't five o'clock be an appropriate time to find individuals at home if someone was canvassing from door to door?

A. Yes, I think you would find them at home at the dinner table.

Q. If an individual Jehovah's Witness himself worked from nine to five, how would he reach members of the Village of Stratton under your ordinance?

A. I think he would do it on his days off from work since you can do the town in — seven days a week.

Q. Could you explain, sir, how you believe that someone speaking about the Bible in the Village of Stratton falls under ordinance 1998-5?

A. On that narrow hypothesis, it doesn't. You can stand on the street and speak about the Bible. You can go to any one of a variety of locations in Stratton that are accessible to the public and not on somebody's private property and speak about the Bible. Essentially if you are lawfully in any place, you can speak about the Bible to [168] your heart's content.

Q. Thank you. Could you explain to me, sir, how someone going from door to door in the Village of Stratton merely speaking about the Bible falls within the ambit of ordinance 1998-5?

A. Without more information, it certainly falls within the ambit. It's because if they are going from door to door, they are canvassing within the ordinary plain meaning of that word and within the Webster dictionary meaning of that word. Number two, if they are going on private property un-invited — which you didn't say, but can I assume that? If they are going un-invited, that's bringing them within the scope of this ordinance. And if they're going there canvassing un-invited onto private property to advocate the religious cause or to explain the Jehovah's Witnesses organization or

the services and so forth, they would be within the ambit of the ordinance.

Q. I have think you have changed the question slightly. Suppose an individual wishes to go door to door merely to state, I want to share with you today John 17:03. This means ever lasting life. They're taking in knowledge of the all powerful God. That's the only thing they want to say.

A. Yes, sir.

Q. Do they need to obtain a permit in order to do that [169] in the Village of Stratton?

A. If they are doing that un-invited, yes, sir.

Q. How do they fall under the ambit of the ordinance if that's merely what they wish to do, sir?

A. There's a Supreme Court case, and I can't remember — name it for you, that says when you go door to door to talk about religion or distribute religious literature, you are, quote, soliciting, unquote. So I think he's soliciting within the meaning of this ordinance, too. I am sure he's canvassing within the meaning of this ordinance.

Q. Is it fair to say that canvassing is not defined under the ordinance, correct?

A. There is no legislatively expressed definition of the word in the ordinance.

Q. And apart —

THE COURT: As far as the language, though, canvassing really isn't one of the verbs they're using. It talks about people who are canvassers, solicitors, peddlers, hawkers, itinerant merchants or transient vendors. Then it says that they're in town for the purpose of advertising, promoting, selling and/or explaining.

There are really three components. One is who these people are in terms of what they are doing. That's the canvassing — whether they're canvassers, solicitors, peddlers, etcetera. The second part is the action verb, [170] promoting, selling and/or explaining; and the third is a product, service, organization or cause. I view this in three parts. I think the language of the ordinance is clearly in three parts.

MR. POLIDORO: Then maybe, Your Honor, if I might.

BY MR. POLIDORO:

Q. Using our hypothetical about the individual who merely wants to go to the door to share a Bible thought for the day, using His Honor's taking this 116.01 and breaking it down into three sections, could you explain how that individual falls within the ambit of the statute?

A. Yes. Within His Honor's first section he is certainly a solicitor and he's also a canvasser if he's going from place to place.

Q. How is that so, sir?

A. Because the plain meaning of the word "canvasser" is a person who goes from place to place for discussion. I am pretty sure that's also the dictionary definition, and I think it's the case law definition. The plain meaning of the word "solicitor" is a person who, whether he does it from place to place or in a single location, appeals to another person for some goal or for some thing; and I am very sure that I recall case law that says, when you're going for a religious purpose, you are a solicitor.

Q. I am sorry, sir, I didn't mean to cut you off.

[171] A. Then the second part, as His Honor breaks it down, is this person is explaining; and then the third part is what he is explaining, if it's a religious cause, we have got all three parts that put him within the ambit of this ordinance.

Q. I appreciate your answer, sir. What I am asking you specifically, an individual who just wants to share one Bible thought, how is that a cause?

A. A cause is a principle or a movement to include religious principles, to include religious movements, that is certainly the plain meaning of the word. That is certainly the dictionary meaning of the word. So when this person is preaching the Bible or this passage, he is promoting a religious cause.

Q. Sir, it is fair to say that you are aware of no statistics with respect to crime and door-to-door activity of Jehovah's Witnesses within the Village of Stratton, correct?

A. No, I think at my deposition I said I would know one which is a total number. There were five documented in the

police reports, and I think I told you from five to ten, somewhere, that would include discussions, not just complaints, that had reached the official record. But other than that, percentages and that kind of statistic, you're right.

[172] Q. Just so I'm clear, do you have any documentary evidence tending to show that one of Jehovah's Witnesses committed a crime while going door to door?

A. The only crime would be a violation of this ordinance. You mean other crimes, violent crimes, thefts?

Q. Anything apart from the violation of sharing the Bible without a permit.

A. Of the cases where a person in town turned out to be a criminal, I do not know whether any of them were Jehovah's Witnesses. They may have been. I don't know.

Q. It is true, sir, is it not, you are not aware of any violent crime resulting from door-to-door activity in the Village of Stratton, correct?

A. I can't specifically recall violent crime coming from door-to-door activity in the village. There may have been, but I can't specifically recall any.

Q. Is it also fair to say that you are not aware of any theft or injury crimes occurring as a result of door-to-door activity in the Village of Stratton, correct?

A. Not in the village, but approaching the village and around the village I am.

Q. But not in the village, correct, sir?

A. Unless you consider flimflamming a guy on his roof a theft. I am not counting that as a garden variety grab-it-and-run theft. But any kind of bilking a guy out [173] of money to me is a theft.

Q. Sir, do you have the book of exhibits —

A. Yes, sir.

Q. — the white book? If, Mr. Bruzzese, please, you could look at any of Exhibit 34s?

A. 34?

Q. Yes, sir.

A. I'm looking at Exhibit 34.

Q. Is that a no solicitation registration form?

A. Yes, sir, it is.

Q. I would ask you to take a look at the checklist appended to that form?

A. I am looking at the checklist with little boxes to the right. It says, allowed, at the top, and it starts out with, no. 1, scouting organizations.

Q. What is no. 4?

A. No. 4 says, children's solicitation for supporting school activities.

Q. And what is no. 6?

A. No. 6 says, Jehovah Witnesses.

Q. Do you have any understanding, sir, how the specific name of that religious group came to be on a form put out by the Village of Stratton?

A. No, sir, this is not part of the form that is legislatively created in the ordinance, and I don't know . . .

* * *

[176] * * *

BY MR. POLIDORO:

Q. Mr. Bruzzese, in your role as village solicitor, is it your opinion that there is a Constitutional right not to be annoyed in one's own home?

A. In my opinion there is a Constitutional right to be free from any state action that assists an intrusion into your home. Constitutional right, as I said in my deposition, protects you from government. It doesn't protect you from a private citizen independently annoying you as your common law and statutory rights do protect you.

Q. So it's your recollection in your deposition you did testify that it's your opinion that one has a Constitutional right not to be annoyed in their own home, correct?

A. My recollection is in my deposition I said one of the homeowner's right that I considered was a Constitutional right to property and a Constitutional right to privacy and also his common law rights of privacy and rights against trespass; and somebody, and I can't remember if it was you or Ms. Gellman, pursued the point on whether I believed the Constitution protected the homeowner against a private individual alone making these intrusions, and I think I said no, but that the village as a government couldn't have [177] a state action that assists him and pushes him or helps him go into your home because that's what the Constitution protects him against.

We couldn't give you a permit that says, you are allowed in my home no matter what I say. That would be a state action forcing me to let you into my home, and my Constitutional right to property and privacy would protect me against that.

Q. Thank you.

MR. POLIDORO: Do you have a copy of Mr. Bruzzese's deposition?

MS. GELLMAN: I have it.

BY MR. POLIDORO:

Q. Sir, I am going to begin please on the bottom of page 54. Just let me give a context to this, where it begins, "Do you

have a legal opinion, sir, whether that annoyance you described is sufficient to overcome an individual's First Amendment right to express opinions?"

After an objection by Mr. Cantor, your answer, "I don't think this ordinance purports to overcome some individual's rights to express his opinion.

Question: Excuse me —"

Top of 55 — "I have a Constitutional right not to be annoyed in my own home which I own as private property because I have my own Constitutional right to property, I [178] think I've got my own Constitutional right to privacy, and, thirdly, I don't think this ordinance overcomes anybody's First Amendment right to speech."

Sir, I am not addressing the right to privacy nor the right to property. I would like to look to your opinion, sir, with respect to a Constitutional right not to be annoyed in one's own home. Do you see that, sir?

MR. CANTOR: Objection, Your Honor.

THE COURT: I'm not sure it's even relevant, but I am going to overrule the objection at this point.

THE WITNESS: I do see that in this deposition, sir.

BY MR. POLIDORO:

Q. Could you explain where that right emanates from, sir?

A. The Constitutional right to property, the Constitutional right to privacy, the case law that says, indeed, a man's home is his castle free from intrusion by even the king himself, and that sort of basis.

Q. Thank you, sir. It's fair to say, sir, that it's your legal opinion that there's no real distinction between the First Amendment protection afforded commercial speech and that afforded religious speech; is that correct?

MR. CANTOR: Objection.

* * *

[180] Q. Mr. Bruzzese, I believe it's the second page here, section 116.03 hyphen 6.

A. 116.03.

Q. (B)(6).

A. I'm there.

Q. "Such other information concerning the registrant and its business or purpose as may be reasonably necessary to accurately describe the nature of the privilege desired." It's fair to say, sir, is it not, that may be reasonably necessary within the purview of this section of the ordinance is within the discretion of the mayor, correct?

A. No, sir. It is within the limited discretion as governed by the standard that's set forth in item no. 6. I have given him a standard that restricts him.

Q. But the interpretation of that standard, what is or is not reasonably necessary within section 6, is within the discretion of the mayor, correct?

A. Not solely. He's one of the persons who will make a decision as to whether he has what's reasonably necessary to accurately describe the nature of the privilege desired, the applicant is another one, and then on appeal under 2506 the common pleas court is one; and I guess I'm a person that will make that decision, too, if anybody is prosecuted under this ordinance, for failure to give such other information as is — So we all, each one of us, will make [181] that decision, but it has a standard that governs us.

Q. Sir, would you not agree that a no trespassing sign on a home in the Village of Stratton would serve to keep away unwanted door-to-door visitors?

A. I would certainly not agree with that.

Q. Why not, sir?

A. No trespassing signs have — Signs have failed to keep people from going door to door even where un-invited, to include our signs at the north and south ends of the village.

Number two, our system is more specific. When you look at a no trespassing sign and you are going to go door to door selling eggs, you think, well, I am not trespassing. I am an

egg salesman. But our system is better than a no trespassing sign. It says specifically, I, the property owner, don't want any salesmen coming to my door. So you get better information from that.

Number three, the no trespassing sign to me is one size fits all, and my experience has been that the property owner really doesn't mean that the pig-tailed girl scout cookie person is a trespasser when she comes to the door; whereas maybe the would be thief is.

But our ordinance lets the property owner clearly specify, in a way that's communicated to people, who is allowed to come on to my private property and who is not, [182] and it does that worlds better than a no trespassing sign.

Q. Sir, you and I discussed in your deposition trick-or-treat-ers on Halloween eve going from door to door would arguably fall within the ambit of the ordinance and be required to have a permit, correct?

A. I was asked that question, I think, and I don't remember what my answer was. I think a trick-or-treat-er would not be required.

Q. Why is that, sir?

A. Because as the judge breaks it down into three parts, one of the parts is the purpose, and this person is not promoting or explaining a product or a cause, just begging candy.

Q. Sir, could you look at any of what's listed as Exhibit 34?

A. In the black book or the white book?

Q. It's your white book, sir.

A. I'm looking at one of the no solicitation registration forms.

Q. Thank you, sir. If you turn to the checklist and look at no. 13, trick-or-treat-ers during Halloween season is listed. So arguably they would be required to have a permit to go door to door, correct?

A. Not arguably to me.

Q. Why is that, sir?

[183] A. I didn't create this checklist. I don't know the thinking of the person who did. To me it is an extra piece of paper appended to a form that I created and that is legislatively created in the ordinance. If you get to me and you're in mayor's court and you're prosecuted for trick-or-treat-ing, I think I say that you don't need a permit unless you are, when you are trick-or-treat-ing at the door, advocating some organization, product, cause, you know, the things that are in the ordinance.

Q. Is it fair to say, sir, that you are aware of no prosecution of trick-or-treat-ers in the Village of Stratton, correct?

A. That's exactly fair to say. You know what? On your no trespassing sign, I didn't quite get finished. Another thing a no trespassing sign is, it doesn't give law enforcement any information. We start out with evidence you have to go on,

after you're gone from the town and it turns out you are the flimflam man or that you are the thief, the no trespassing sign doesn't give the police or the village officials any handwriting, any ID, any MO, your modus operandi, to either alert other towns along the way or to start as a starting point to track you down in the criminal identification process.

Q. You mentioned three things there, sir, and you are speaking about the permit.

[184] A. No, no, you asked me: Wouldn't a no trespassing sign just serve as well?

Q. Right.

A. My answer is: Clearly not.

Q. Because your statutory scheme provides for the issuance of a permit to go door to door, correct?

A. It does more than that. That's one of the things it does, yes.

Q. But I am addressing your point with respect to handwriting, MO and identity. Those are your three points, correct, that would be derived from a permit?

A. There certainly are others. There is the face of the guy who walks in. You get — the clerk gets to see his face.

Q. But the face would also be available to the homeowner who the fraud was perpetrated on, correct?

A. Yes.

Q. And the homeowner could also testify to the MO, correct? Modus operandi?

A. No, I don't think so. One isolated instance, when a guy comes up against the express desire of the no trespassing sign, you don't see the pattern.

Q. Let me ask you, sir, how does applying for a permit help to identify what a con artist's modus operandi is?

A. He fills out his stated, which we will later learn is [185] fraudulent, purpose right there in the registration form.

Q. But —

A. We don't have to argue later what he said. When there is an elderly, 86-year-old lady in court, and we're arguing what did he say to her or what did he not say, how did he represent himself, it's her against him. But we have an additional, at least one additional witness, the clerk who saw the guy. We have written evidence of what he represented himself to be. So when he says, I'm with the American Youth Organization, that's my affiliation, and he has to show some credentials, we have got something to go on to prove that you are not with that organization or there is no such organization, and, therefore, you may be a fraud.

Whereas this 86-year-old lady is going to have to remember, what organization did you say that you were affiliated with? What really did you promise to do? And you are going to be there, if we ever catch you, saying, I never

promised I was going to replace three shingles, and her roof was going to be fine for $10.

Yes, the homeowner is a witness. The more witnesses, the merrier; the more documentary evidence and identifying evidence that we have to go on, the better it is for law enforcement. I don't think anybody can argue with that. So I like the registration and the owner's [186] registration better than just the no trespassing sign.

Q. Are you aware of any case in the State of Ohio that's used handwriting in an attempt to prosecute fraud in door-to-door solicitation?

A. Fraud. In door to door? No. But I am aware, when I was doing criminal defense, of handwriting identifying being used in federal cases and state cases to identify the perpetrator of an alleged fraud. Yes, sir, I can.

Q. In door-to-door solicitation?

A. Not door to door, but just fraud in general.

MR. POLIDORO: Thank you.

THE COURT: I assume you are finished, counsel?

MR. POLIDORO: I apologize, judge. I am quite done.

THE COURT: Mr. Cantor, before you redirect, I have a few questions of Mr. Bruzzese which you may follow up.

Mr. Bruzzese, if I could turn your attention back to the first paragraph of the ordinance, 116.01, the plaintiff's black binder —

THE WITNESS: The black book.

THE COURT: My question first concerns the scope of the coverage. Do you interpret the statute — excuse me, the ordinance to include persons coming into the village, for example, and going door to door on some type [187] of political campaign?

THE WITNESS: Yes, if they are going un-invited onto private property for their political campaign or political cause, yes, Your Honor, I do.

THE COURT: May I conclude also, I assume you would as well if they are barred after five o'clock in the evening?

THE WITNESS: Yes, Your Honor, on a separate ordinance. You directed me to .01.

THE COURT: That's just a definition of who would be covered.

THE WITNESS: Yes.

THE COURT: But another covers the time of day?

THE WITNESS: Yes, sir, that's .05.

THE COURT: Is it also your interpretation of the ordinance, and this would be I assume under 116.03 and perhaps under .04 as well, that each person going door to

door who may be part of an organization or a religious group going through the village would have to register so long as each person is going door to door?

THE WITNESS: Yes, Your Honor.

THE COURT: A group couldn't register as a group. Each individual has to register. It could be part of the same application, but they would all be listed on the one application?

[188] THE WITNESS: List them all on the same form, but we want everybody to have the permit in his hand so each one can exhibit that permit. It has to be exhibited in case there's any question about: Are you part of this group, or are you just following this group around? And maybe you're somebody else.

THE COURT: That's all the questions that I have.

Mr. Cantor, if you wish, you may redirect.

MR. CANTOR: One moment, Your Honor.

Thank you very much, Your Honor. Thank you, Mr. Bruzzese. No further questions.

THE COURT: Any further questions?

MR. POLIDORO: Nothing, judge.

THE COURT: Thank you, Mr. Bruzzese. You may step down.

* * * *

APPENDIX O — EXCERPTS FROM TRANSCRIPT OF TESTIMONY OF HELEN MAC MURRAY, OHIO ASSISTANT ATTORNEY GENERAL DATED JULY 27, 1999

[commencing at page 206]

* * *

HELEN MacMURRAY

being first duly sworn, as prescribed by law, was examined and testified as follows:

DIRECT EXAMINATION

BY MS. BREY:

Q. Good afternoon, Ms. MacMurray.

A. Good afternoon.

Q. Would you please state your name?

A. Helen MacMurray.

Q. And whom do you work for?

A. Attorney General Betty Montgomery.

Q. In what position?

A. I am chief of her consumer protection section.

Q. How long have you been chief of that section?

A. Next month it will be four years.

Q. Four years. Could you tell us a little bit about your education and particularly just briefly your law [207] school education?

A. Certainly. I went to the University of Toledo, and I graduated in 1987. I then went into private practice for eight years, and then I have been working for the Attorney General's office for the last four years.

Q. And you have been a member of the Ohio Bar, I take it, since —

A. 1987, that's correct.

Q. Could you tell us what kind of work you do as section chief of the consumer protection section of the Attorney General's office?

A. Certainly. The consumer protection section at Attorney General Montgomery's office is charged with enforcing all of Ohio's consumer laws, and we have a section of over 90 individuals of whom I am the chief administrative officer. I am responsible for all the labor and employment issues. I am responsible for all the enforcement legal actions that are filed. There is an investigative unit that I oversee as well, and then we have a very large complaint mediation unit and consumer education and outreach division as well, and I am responsible for all those individuals, for the programs that go in all these areas as well as I do media myself, I do frequent speaking, everything that needs to be done to get the word out to protect consumers.

[208] Q. And what types of thing have you spoken on and where? Just give us some examples.

A. Sure. Recently the Consumer Union celebrated its 100th anniversary, and I spoke to them on telemarketing fraud. A couple months ago I was in Canada with the Solicitor General of Canada against Boeuf Monde International cross border issues. I have spoken to the National Association of Attorneys General on Internet fraud as well as telemarketing fraud. These are all national conferences. And I speak constantly throughout the State of Ohio to small and large groups alike.

Q. Okay. Have you ever made any appearances in television and radio?

A. Yes, our section was responsible for passing the first criminal telemarketing fraud law in the United States, and Diane Sawyer with Prime Time Live decided to make that the focus of an undercover operation, and I participated in the undercover operation with her news crew, and we had actual fraudulent telemarketers calling me. All of that was then revealed to the telemarketers, and in fact resulted in a number of them going to jail.

I also have probably a dozen of the major either television or newspaper markets have either interviewed me as part of their stories or my cases have been part of them, the Wall Street Journal, the New York Times, some of [209] the — Dateline NBC has done a show on one of our cases, probably a good dozen or so national publications have featured our work.

Q. In addition to your speaking engagements and your work in the section, in the consumer protection section, do you conduct any training of any groups with respect to protecting against consumer fraud and other related consumer problems?

A. Yes. As a matter of fact, I just finished a year tour, if you will, throughout the United States training law enforcement, prosecutors and sheriffs, deputy sheriffs, those type of people, in telemarketing fraud and Internet fraud issues. I have also again spoken throughout the State of Ohio to various groups and been very active in training, especially for law enforcement.

Q. I am going to ask you now, if you could very briefly, if you would look at the white exhibit book beside you there, and if you would turn please to Exhibit 38? Do you see that? Have you seen that document before?

A. Yes, I have.

Q. Can you identify that for us please?

A. That is a copy of my resume or curriculum vitae.

Q. And roughly how many pages is that there?

A. It is a three-page document.

Q. Very good. Does that reflect the experience and [210] activities that you have talked about today?

A. Yes. The only difference is that I indicated in my resume 80 members, and there's actually 90 members. I didn't send you an updated copy. I apologize.

Q. That's quite all right.

Ms. MacMurray, what areas specifically does the field of consumer protection cover? Could you give us an idea?

A. Any good or service that a consumer can purchase for personal use is covered by the consumer laws that I enforce. So that is automobiles, there is home improvement fraud, there is telemarketing fraud, it is sweepstakes, it is the television that you buy at the Sun TV that goes bankrupt, just a variety of things.

Q. Does the consumer protection section then do any work in the area of door-to-door solicitation?

A. Certainly. A number of the ones that I have mentioned can kind of cross paths and be sold in door-to-door solicitations.

Q. Can you describe for us what the section does in regard to door-to-door solicitation? Understanding that that crosses a number of areas.

A. Sure. The Consumer Sales Practice Act, which is the primary consumer law in Ohio, as well as the Home Sales Solicitation Act, which specifically goes to some [211] door-to-door sales, are the two statutes that we would then enforce for door-to-door sales; and some of the items that

we see frequently sold door to door, probably our biggest area of concern is home improvement services. We have items being sold like vacuum cleaners and a variety of series like that, landscaping work. You don't see much of the Fuller brush man anymore, but certainly more in terms of services provided to the consumer.

Interestingly enough, now that the Ohioans have a choice of who their natural gas providers are, several companies have chosen to sell their natural gas and switch providers by door-to-door sales. So really it can be anything and everything.

Q. And just for a point of clarification, your office, does the work that you do concentrate in specific areas of Ohio?

A. Oh, no. You mean with regard to the enforcement actions that we take?

Q. Yes.

A. We're statewide in terms of where the complaints come from, and in fact the businesses that we regulate can be all over the United States, and in fact we do do a fair bit of international prosecutions as well.

Q. You talked a little bit about some of the problems that are brought to your section's attention and relate to [212] door-to-door solicitations. Are there others that, other types of problems, that might come, fall under the rubric of the door-to-door problems?

A. There's a multitude of different products that we see out there that are sold door to door. Some of it borders more on the criminal intent where you have someone come to the door, keeping you engaged in conversation, and someone coming in your back door and taking your valuables. That may or may not fall under our jurisdiction. Sometimes we work hand in hand with local law enforcement when it's kind of a dual support like that.

Q. Based on your knowledge and experience as a section chief, is there a particular group or groups of people who may be more susceptible to consumer fraud and other consumer types of problems?

A. In my experience we have noticed that today's scam artists tend to focus on the most vulnerable populations, and we find those to be senior citizens and people with low education and low income levels.

Q. When you talk about senior citizens or the elderly, could you give us an idea age-wise what you are talking about?

A. Well, we don't really have a set age range. I think that maybe 50 and over is a general assumption. However, we also take into consideration when individuals may be [213] disabled or may have other things that make it more difficult for them to be able to enter into consumer transactions.

Q. What you just said about the elderly and/or senior citizens, does that hold true for door-to-door solicitations as well?

A. Most certainly. Because in fact senior citizens are the ones who are typically home nine to five. So I think in fact a higher

percentage of them fall victim to door-to-door kinds of solicitation because they are there. Same with telemarketing fraud, they are there to answer the phone.

Q. What are some of the particular characteristics that you have noticed in some of the enforcement actions that your section has taken in the door to door, other areas that form the basis of your view on the elderly being particularly susceptible?

A. Just in regards to the cases that we see, especially the ones that are most egregious, they almost entirely seem to be senior citizens. In my travels throughout the country, in participating in seminars, in listening to other individuals speak, again what seems to be prevalent throughout the United States with the door-to-door solicitations that the intimidation factor again seems to make the senior more vulnerable; and because they are more [214] vulnerable, they seem to be attacked more often. So they seem to be targets.

Q. Is there a difference there between door to door and telemarketing from that standpoint?

A. Actually they're similar. However, as much as I think seniors do have a hard time hanging up the phone, a lot of times on the door-to-door solicitation, in fact one of the reasons the Home Sales Solicitation Act was implemented was because once these people are in your home, we still hear stories about them staying there three, four hours, and senior citizens being unable — being intimidated by the individual, and they don't want to be rude, and they have a hard time getting the person to leave.

Q. Ms. MacMurray, I am going to ask you now, if you would, to look at, I believe it's in the black exhibit book, at Exhibit 1 in there. Have you seen that before?

A. Yes, I have.

Q. And what is that?

A. That appears to be the Village of Stratton's ordinance with regards to un-invited peddling and solicitation.

Q. And that's something that you reviewed in preparation for your testimony today?

A. Yes, I did.

[215] Q. Have you also reviewed the complaint in this case?

A. Yes, I have.

Q. Ms. MacMurray, I would like you to listen to some facts, and assuming those facts to be true, answer some questions based on your expertise. I am going to give you some facts and assume this would be characteristic of the Village of Stratton.

Assume a village of roughly 278 people, the majority of whom are elderly, which is to say over 55 and that age range. This is a village located in Ohio, very near to the West Virginia border, probably no more than 15 miles from West Virginia, probably closer than that, around 60 miles from Pittsburgh, and immediately adjacent to an intrastate highway, namely Route 7, and the Ohio River.

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In addition to looking at the ordinance, as I know you have, I will tell you also to assume that under that ordinance a person would carry but would not necessarily be wearing a badge, carry a permit but would not be wearing a badge, and the residents in question with respect to section 116, I believe it is .07, would be — would have the option of saying no to all solicitors, putting a sign on the door and also registering, of course, with the village, but saying no to either all solicitors or listing exceptions to that of individuals or groups they would like to have come to their place.

[216] So assuming all of that and having looked at the ordinance, based on your knowledge and experience as section chief of the Ohio Attorney General's consumer protection section, do you have an opinion whether an ordinance such as the one that you have before you would be helpful in combatting consumer fraud and related consumer problems in door-to-door solicitations?

A. Yes, I have an opinion.

Q. What is that opinion?

A. My opinion is it would indeed be helpful.

Q. Why would that be helpful?

A. Really for a variety of reasons. First is just preventive medicine. We spend a lot of time on consumer education trying to get the word out. Unfortunately, that always doesn't work. So if there were a registration requirement in a community, it's our experience that fraudulent, door-to-door

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solicitors will pass that community by. So in one sense it may avoid trouble before it starts.

Additionally, having the information, the solicitor's name and the additional things that are provided by this ordinance, again if a scam or fraud does occur, then the law enforcement or the investigators in my office would be assisted by that information.

Also one of the main things that seniors tell me [217] is that they can't tell who the fraudulent solicitor is from a good guy, and that's for a very good reason. Because con artists are very slick and very savvy and very nice, and the senior has a hard time telling. So if a permit was required, then the consumer would be able to know, one, if they had to sign up, if someone was at the door, they are going to know that they are dealing with someone fraudulent because they are disobeying the law; and, two, the fact they have a permit in their hand, the consumer who doesn't have a sign can ask to see the permit; and if they didn't have a permit, they will have a better idea of knowing who — this person is again violating the law, and they will have an easier time shutting the door.

Q. Very good. Would you say that door-to-door solicitations, do they still cause consumer harm throughout Ohio?

A. Very much so, yes.

Q. In what ways?

A. Oh, well, in a variety of ways. Right now our main priority in our section is home improvement fraud, and we find that

a significant amount of home improvement work is solicited door to door. In fact one of the more fraudulent groups out there are called the travelers or the gypsies; and in fact this group comes up to Ohio — In fact I just got a call from the Toledo area today — but they come up [218] to Ohio and various states, and they just sweep through communities, and they are — What they will do is knock on your door and say, we notice that the shingles on your roof are coming off or the blacktop needs work to be done; and what they will do is agree to do it for the consumer for a very inexpensive price, and they will perform the work, the blacktop is typically just a black paint that washes off, the roof shingles will fall back off, and the paint will wash off your house; and then frequently what they will do, the $200 paint job that you agreed to in the morning will be an $800 job by the end of the afternoon.

And they can be very intimidating. They focus primarily on communities just as you have described Stratton to be, and again they also focus on senior citizens, and they look for neighborhoods with the well-kept lawns and the little lawn ornaments and things that to them say they are senior citizens.

Q. Could I have you look again at the white exhibit book, not to confuse you too much, and look at I believe it is Exhibit 39.

A. Yes.

Q. And do you recognize the document that is Exhibit 39?

A. Yes, I do.

Q. Could you tell us what that is?

A. Sure. The investigators in our office work in [219] conjunction with law enforcement throughout the country, and this was material that we picked up from law enforcement in the southern part of the United States who deal a lot with information on the gypsies, the travelers, the various names that they are known by; and that is information that outlines some of what is seen traditionally throughout the country and here in Ohio with regards to these traveling groups that prey on you at home.

Q. Do these groups primarily stay in the state, or do they come from outside of the state?

A. There are circumstances where they do come from within the state. Years ago we had the Circleville tree trimmers make their way into the rural communities north of Columbus, but most frequently they come from the southern part of the United States. They winter there and come to visit us in the spring.

Q. You've talked about some of the consumer harm that can relate to the door-to-door solicitations. In that same exhibit book can I have you look at Exhibit 40?

A. Yes.

Q. Can you tell us what that is?

A. This was an inquiry run on our new computer system. It is basically a listing of every consumer complaint filed with our office in the counties of Belmont, Columbiana, Carroll and Harrison from the period of time of January 1, [220] 1997, to the date July 14 of 1999.

Q. Okay, and does that — First of all, tell us how the — You see a number of data fields there.

A. Right.

Q. What is the first column there in the data fields?

A. Solicitation.

Q. Okay. Has that column always been something that you have noted in that type of report?

A. No. My understanding is that, again, this a new computer system that can enter many more fields than we had available before, and the solicitation column is supposed to indicate the type of contract between the consumer and the solicitor. And just being able to look at in this way is brand new. We have never been able to do that before to my knowledge.

Q. Is that recent in the past year or the past —

A. The computer system has been in the last year. This frankly is the first time I have seen the report run this way. Frankly we are upgrading on a daily basis, and the reports are getting better and more comprehensive as the entire system is being utilized.

Q. Does the report that you have in front of you, is that for particular areas, or is that for the whole state?

A. Those are for four of the 88 counties in Ohio.

Q. Does that report in front of you support your opinion [221] that there's significant consumer fraud in Ohio from door-to-door solicitations?

A. Certainly it indicates there is door-to-door solicitation fraud occurring. Our office is not — has not been set up to be able to pull out statistics with regards to door-to-door solicitations before. So it does show some, yes.

Q. But it shows some by the listing. Are there others than what you see as a specific listing in the first column there?

A. I am sorry.

Q. For door to door?

A. There are two door-to-door solicitations that are cited in this report, yes.

Q. Based on your experience in your office, do you see a fair amount of door-to-door solicitation problems? Whether or not they are recorded in your computer system —

A. Sure.

Q. — as such.

A. Yes.

Q. Okay. Very good. In your experience as section chief have you ever seen any other type of a registration requirement at the local government level for would be solicitors?

A. Yes, I have.

[222] Q. And what type of setup is that?

A. Well, I'm aware that many municipalities have these type of ordinances. Specifically, I am familiar with ordinances that are enacted after national disasters when the Attorney General's disaster program has taken effect.

Q. First of all, what is the disaster program that your office has?

A. The disaster relief program was implemented after the Xenia tornado. Because of the amount of national press that the terrible tornado received, literally thousands of contractors came to the Xenia area from all over the country. Unfortunately what happened was the tornado victims were secondly victimized again by folks coming to rebuild the house and taking the insurance check and either doing slipshod work or taking the check and leaving; and we had thousands of complaints filed with our office afterwards and basically could do nothing because we couldn't find these people. We didn't know where they were. It was just impossible.

So after that we implemented a computer program, and after a disaster we offered to municipalities a computerized

program that goes hand in hand with a contractor registration requirement which they pass by ordinance. The ordinance requires for a certain time period all contractors to register and to provide [223] significant background information which then is plugged in our computer system and which we verify. It includes a criminal background check. It includes past bankruptcies, past action in consumer fraud. It's really very thorough, and it can be very helpful in having the bad guys to stay away to begin with; or if we do have a contractor who registers and there is a problem, we have a sufficient amount of information on him to go back on him.

In fact most recently we used it after the Cincinnati tornado earlier, and again we had hundreds of contractors, and it was amazing how many had criminal backgrounds that we would not have found out about but for this type of registration program.

Q. So would you say there are several types of benefit that can come from some type of ordinance that would require registration of would be solicitors?

A. Right. Like I said, actually similar to my answer about the Stratton ordinance, one, it prevents a lot of times the bad guying coming into town to begin with because they're afraid of registration; and secondly, it provides law enforcement and our office with some information to go after the individuals who may have committed a fraud.

Q. Having looked at the Stratton ordinance, as I know you have, are there any other mechanisms in the consumer protection area that allow a resident to prevent unwanted [224] intrusion into his or her home?

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A. Yes, the Federal Trade Commission's telemarketing sales rule.

Q. Would you tell us a little bit about that?

A. Sure. I believe in 1993 Congress enacted —

MR. POLIDORO: If I might note, I don't believe there is any issue in this case with respect to telephone fraud.

THE COURT: Counsel, I assume you are offering this testimony in rebuttal of the prior witness's testimony of the greater harm caused by telemarketing versus door-to-door solicitation?

MS. BREY: Well, that in part. In part it relates to a similar mechanism to allow a resident to say, we don't want an intrusion in the home, something that operates similar to that part of the Stratton ordinance.

THE COURT: All right. I will overrule the objection. You may answer the question.

THE WITNESS: The telemarketing sales rule allows consumers who don't want to receive telemarketing calls into their homes to, when they do receive a call, to be asked to be put on a do-not-call list, and the telemarketer is required by federal rule to obey that request. Also the consumer can write to the companies and ask ahead of time to be put on this do-not-call list so they don't receive a . . .

* * *

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[226] * * *

A. Well, my experience has been overall that all of the efforts of all of the consumer protection agencies in the country pales in comparison to the amount of consumer fraud that's out there, and it's my opinion that everything that can be done helps that problem even more.

For example, we talked about telemarketing, each year $40 billion is lost to telemarketers. That gives you some idea of the huge amount of dollars that are involved. So my theory is everybody helps as much as they can, state, local, federal, and we can make a little bit bigger niche in this huge issue.

Q. Thank you. If the Consumer Sales Practice Act was adequately enforced, would it address the problems with respect to door-to-door solicitation in the Village of Stratton?

A. Would you repeat the question please?

Q. Sure. If the Consumer Sales Practice Act was adequately enforced, would it address the issue of consumer fraud within the Village of Stratton as concerns door-to-door solicitation?

A. That would assume that you would be bringing about 100,000 lawsuits a year. If we did that, maybe.

Q. Are you familiar with how many incidents of crime or fraud emanate from door-to-door activity in the Village of [227] Stratton?

A. No, I'm not.

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Q. What evidence have you reviewed with respect to the population of the Village of Stratton?

A. I am aware of what Ms. Richards indicated was the population, and that is the extent of my knowledge.

Q. Have you reviewed a census?

A. No.

Q. Have you reviewed any — a list of the population indicating who resides in the village and their ages?

A. I have seen a partial list, yes.

Q. Was that the senior citizen list?

A. I don't actually — I don't think so. I think it was just a —

Q. Can we turn our attention to the Home Sales Solicitation Act? What in the Home Sales Solicitation Act would be insufficient to address the issues of consumer protection and protection of the elderly in the Village of Stratton?

A. Well, it does not provide the knowledge to the consumer as to who is a legitimate supplier and who is not. When somebody comes knocking at your door, they could theoretically comply with the Home Sales Solicitation Act, and yet fraud could still occur. So the problem is trying to identify who are the good guys and who are the bad guys.

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[228] Q. But the ordinance, 1998-5, wouldn't address that problem?

A. I think it would implement some preventive measures and investigative measures that would assist.

Q. But you are aware there is no mechanism of verification in order to obtain a permit?

A. I am.

Q. Is it fair to say you are not rendering any opinion as to the Constitutionality of this statute, correct?

A. That's correct.

Q. Is it fair to state that your opinion is limited to the fact that this ordinance would be helpful in the prevention of fraud and the protection of the elderly?

A. That's exactly what I'm saying.

Q. Why did you choose the word "helpful"?

A. That was a poor choice of words actually.

Q. But I think it was your testimony, and I think it was also a word that you used in your report and in the deposition, and I was wondering why that word?

A. Well, again I go back to the fact there are many things that can help; and if it is a help, then it is helpful.

Q. So if the Village of Stratton passed an ordinance — a curfew prohibiting anyone to be on the street from the hours of four in the afternoon to nine in the morning, [229] would you similarly believe that that ordinance would be helpful in the prevention of fraud?

A. What were the hours again?

Q. Four in the afternoon to nine in the morning?

A. Yes.

Q. Are you aware that the chief of police of the Village of Stratton believes that they have no problem with respect to transient crime groups in the Village of Stratton?

A. Am I aware of that?

Q. Yes.

A. No.

Q. If that fact were true, and let's accept for the moment that that fact is true, would that change your testimony?

A. No, not at all.

Q. Why?

A. Because one of the benefits that I felt was the fact that a registration ordinance existing tends to make those groups choose to go somewhere else. So just the fact that it's there would be helpful.

Q. I would like to make the record clear. What is the factual predicate upon which you're basing the opinion that you gave the Court today?

A. Well, I assumed the facts as indicated by Ms. Richards.

[230] Q. Apart from that, upon what are you basing your opinion?

MR. CANTOR: Objection, form of the question, Your Honor.

THE COURT: Rephrase the question.

MR. POLIDORO: Certainly, judge.

BY MR. POLIDORO:

Q. What serves as the factual predicate for the opinion that you are basing today? In your deposition you testified that it was general fund of knowledge.

A. Yes, it has been the experience of the complaints that I have seen in the Attorney General's office. It has also been my experience with regards to the journals, newsletter, articles that I read with regards to consumer fraud; and as I said, I am very active on the national and international fronts, and I attend many events where I hear of other states' experiences as well. We work prosecutions with many other states and some other countries as well. All of that is the information upon which I draw to render my expert opinion.

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Q. Believe me, Ms. MacMurray, I don't mean this question to be demeaning to that experience, but apart from your personal experience, upon what else factually are you basing your opinion that you are giving the Court today? Any other pieces of evidence? Any other pieces of [231] information?

A. Well, I could say any home improvement or door-to-door case that I have read or heard or dealt with in my office.

Q. Anything else?

A. I think I refer in my deposition to an AARP study.

Q. That was on telemarketing, correct?

A. That was.

Q. Anything else?

A. I am sure there are probably many other little things out there that I might pull, but that is a good summary.

Q. Now can you refer to — Maybe we could look at that together — Exhibit 40?

A. Yes, I have it.

Q. Now is this fair to say that you asked that this report be generated for the purpose of this lawsuit?

A. That's correct.

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Q. And an investigator from your office prepared this pursuant to your request?

A. Well, actually he made a request to my computer person, who one of her staff I'm sure put this together.

Q. Thank you. It's fair to say that this report does not address any door-to-door solicitation problems in the County of Jefferson, correct?

A. That's correct. Belmont, Columbiana, Carroll and [232] Harrison were the four mentioned.

Q. Are you aware of what county Stratton is in?

A. I believe it's in Jefferson County.

Q. Is there a reason that Jefferson County isn't submitted in this evidentiary foundation?

A. Well, my request to my investigator was the surrounding area, and he took me quite literally and gave me the surrounding area.

Q. And in that report that he prepared, had prepared and generated for you, Ms. MacMurray, it indicates 544 total complaints. Is that a proper way to put it?

A. That's exactly right.

Q. In reviewing this, there are two that are specific to door to door?

A. Well, my understanding is that that may not be entirely accurate.

Q. But in reading the language under solicitation, I see on page 1 under the category door to door, there are two, correct?

A. Yes, that's correct.

Q. Is there any other listing on this form for door-to-door solicitation problems out of the 544 that were generated?

A. I have been told that because the solicitation field is brand new, that it has not been the practice of my [233] complaint specialist to note the type of solicitation and that they may or they may not have.

So in fact I have been told that to get an accurate figure would be impossible. I think I indicated in my deposition that our ancient computer system, which we are slowly trying to update, just unfortunately was not able to give us statistics with regard to accurate door-to-door solicitations.

Q. Maybe my question could be a little better put. Is it fair to say that the report that your investigator had procured for you from the resources of the Attorney General's office specifically indicates only two complaints from door-to-door solicitation from January, 1997, to the present for the counties that were surveyed?

A. It would be accurate to say there are two door-to-door complaints listed in the solicitation field. I can't say there are only two door-to-door complaints.

Q. Fair enough. Thank you. You had spoken earlier about the disaster relief provisions, statutory provisions?

A. Yes.

Q. That's limited to home contracting, isn't that fair?

A. No. It can also include commercial work as well.

Q. But apart from commercial and home contracting, it has no other applicability, correct?

A. Not to my knowledge, no.

* * *

[235] Q. But money would be part of that transaction ultimately, correct?

A. Yes.

Q. Okay.

A. Well, actually I take that back. I'm sorry.

Q. I didn't ask the next question fast enough.

A. We do deal with privacy violations.

Q. How so? Do you deal with privacy violations apart from funds?

A. Primarily because we have jurisdiction under the FCRA, the Fair Credit Reporting Act, and that concerns how your

name and information can be used back and forth. So you may not have lost anything monetarily, but just the improper exchange of information can result in a violation under that act, and we do have jurisdiction to enforce it in federal court.

Q. Now could you explain for us, please, why it's your opinion that a permit is needed in the Village of Stratton for an individual who wants to go door to door merely to discuss ideas?

A. I said that a permit would be helpful because, again, we try to give consumers, especially senior citizens, a bright line. When there is a bright line as to what is the law and what is not the law, and somebody is not obeying the law, again they are going to have a better idea who is [236] legitimate and who is not.

The second goes to behavioral concerns. Unfortunately, we find certain individuals, again many of them senior citizens, when they are in the habit of talking on the phone or answering the door to solicitors, that they become comfortable with this interchange; and unfortunately, that type of person is going to be most prone to the fraudulent either telemarketer or person at the door because they are used to engaging in those types of behaviors.

So, for example, when we have a particularly bad problem with telemarketing fraud, our number one recommendation is to disconnect the phone and get a new phone number. Unfortunately, you can't get a new home every time you have problems with door-to-door solicitations. So sometimes extra measures are necessary.

Q. Let's assume for the moment I'm elderly, and elderly is over 50, correct? Basically?

A. Depending on your mental state.

Q. I just did that for Mr. Moake's benefit. Let's assume —

A. I already insulted him in my deposition. I apologize.

Q. I want to go on record, he said I was 51. I'm not.

Let's assume that I am elderly, and I'm in the [237] Village of Stratton. Wouldn't an effective bright line be a no trespassing sign on my door? That as an elderly person I would know that no one is supposed to come to my door. Wouldn't that be a similar bright line?

A. Only to the effect that you have knowledge of that that is something that they are required to comply with. If it's just something that you've voicing your preference and they still come to the door, then that may not work; whereas if they know there are actual municipal potential penalties that could be assessed, this would again be helpful.

Q. We're speaking of a bright line for whom? When you say a bright line, for the elderly resident or for the door-to-door canvasser?

A. For the elderly resident.

Q. It's fair to say that you're not aware of any involvement of gypsies in the Village of Stratton, correct?

A. Yes.

Q. It is also fair to say that you are not aware of any fraud perpetrated against the elderly or otherwise from door-to-door solicitation in the Village of Stratton?

A. That's correct.

Q. It is also fair to say that you are not aware of the activities of travelers in the Village of Stratton?

A. Yes.

* * *

[240] A. Those were examples that I gave to her, and she is just reminding me to include them in my report.

MR. POLIDORO: Thank you very much. I thank you for your courtesy today. Could I have a moment, judge?

THE COURT: Yes.

BY MR. POLIDORO:

Q. With three lawyers, there are a few more questions please.

Is it fair to say there are no statistics to support your opinion about the effect of registration on the prevention of consumer or elderly fraud, correct?

A. We don't keep those statistics, you're right, yes.

Q. And it's fair to say there are no statistics to support your opinion about the effect of registration on the investigation of consumer or elderly fraud, correct?

A. We don't keep those statistics, no.

Q. What is your opinion about the effect on consumer fraud of a municipality that provides the names and addresses of all the residents in its village to anyone who asks?

A. That's purely a matter of public record, and you would be amazed how that information is bought and sold on a daily basis.

Q. A record of each and every homeowner, name and address in the village?

[241] A. What kind of food they like and what type of television shows they watch. It's a big business.

Q. Is it your experience that municipalities in the State of Ohio provide that on a routine basis to anyone who asks?

A. The division of motor vehicles does. There are many lists that are public records that companies ask for frequently unfortunately, and this information is common knowledge.

Q. Fair enough, but I am being a little more specific here. I am not speaking of the department of motor vehicles. I am speaking about the municipalities themselves, the Village of Stratton particularly. Do you have an opinion about the effect on consumer fraud of the Village of Stratton providing to

anyone who asks the names and addresses of all the residents of this village?

A. I guess — I don't understand.

Q. Maybe I can show the exhibit, and we can look at it together please. It would be in the white book please.

THE COURT: Exhibit 33, counsel.

MR. POLIDORO: Thank you, judge.

BY MR POLIDORO:

Q. 33 please.

A. Your question?

Q. Do you see 33?

[242] A. Yes.

Q. It appears to be a listing of, a street address listing of names, addresses of every resident in the Village of Stratton. Do you have an opinion as to the effect on consumer fraud of the Village of Stratton providing this list to anyone who asks?

A. Yes.

Q. What would that opinion be?

A. My opinion would be that this is information that probably most suppliers have on a regular basis and, therefore, there would be no additional — there would be no harm.

Q. None at all?

A. Not in light of the fact that it's a public record and it's used day to day I assume.

Q. Does that implicate any privacy considerations in your mind?

A. Well, again in my office we're real keen on public records, and this is a public record. So, no, there are not.

MR. POLIDORO: Fair enough. Thank you very much. Thank you, Your Honor.

THE COURT: Thank you, counsel.

You may redirect, counsel.

[243] REDIRECT EXAMINATION

BY MS. BREY:

Q. You were asked a few moments ago on cross-examination about whether there are certain statistics on consumer fraud. Ms. MacMurray, do you need statistics to render an opinion whether an ordinance, such as the Stratton ordinance here, would be helpful to combat consumer fraud?

A. No, I don't need statistics. I need to go to Dayton and view a woman's home that has been demolished and the hole that's been left when the contractor takes off. I mean I see that type of harm on a regular basis, and I hear about it on a national basis. When you see that happen to even one 80-year-old woman, you don't need statistics to tell you that it's a huge problem.

Q. In this case you mentioned about the 80-year-old woman in Dayton. Would you tell us a little bit more?

A. Yes. She had a fire to her home, and a door-to-door home improvement contractor approached her at her front door and said that the home needs to be demolished, and I will take care of it. So she took her $40,000 insurance check and gave it to this individual. He came back, dug the foundation and was never heard or seen from again.

The consumer's home was then put in Court order because she had created a public nuisance, and they were threatening to put her in jail. She comes to my office [244] with this sad story, and we were able to hunt this fellow down, and we did obtain an injunction against him, and he was forced to come in, and he's being made to do the work and working on paying the woman back her money.

Q. You were asked also, I believe, about whether you were retained for the purpose of testifying today.

A. Yes.

Q. I want to clarify for the record, were you paid a fee for coming today?

A. No, no. Under the Consumer Sales Practice Act we are charged statutorily with conducting consumer education and outreach. So that's what I do.

Q. So you're here with the Attorney General's permission today?

A. That's correct.

Q. When you talk about, just now you mentioned about the outreach and education. I think you also said that's helpful in dealing with, talking with the elderly and other folks about the consumer problems that are out there, is that correct?

A. Again prevention is a major key. In fact we are turning more and more nationally away from the trend of doing the legal enforcement actions and trying to put more dollars into consumer education to try to prevent the harm before it occurs.

* * * *

APPENDIX P — EXCERPTS FROM TRANSCRIPT OF CLOSING ARGUMENT OF APPELLEES — VILLAGE OF STRATTON DATED JULY 27, 1999

[commencing at page 272]

In *ISKCI*, Your Honor, that's the airport case as we know it now, that there was in fact a ban upon Krishnas from the internal operation of the airport, and then they were taken to the outside or to the sidewalk. At that time the Court identified there may have been a small change, a small change of those individuals who would otherwise have been given the opportunity to contribute.

In the ISKCI case, the fact pattern identified is that the intention to donate was actually apart of the religious mantra of the organization. So we are now in a situation where the federal government is moving someone from that which they have to do as a result of their religious organization, make them move outside; and they saw there was a high percentage that would still be attracted to them.

The analogy in the Stratton situation is that out of the 280-or-some-odd homes we have 20, 21 who have identified they don't want to be bothered. The rest of them are entitled and wish to be serviced, and they all could be reviewed because all of them must go to the post office on a daily basis.

THE COURT: Do you find any Constitutional problem with the form that singles out one religion for a check box, and no other religion is mentioned on the form?

Appendix P

MR. CANTOR: Your Honor, that check box also [273] identifies a special place for information on the bottom of any other churches that someone did not want —

THE COURT: None of them are not listed by name.

MR. CANTOR: No, Your Honor, there isn't; and that may have had something to do with the frequency of the calls rather than — That particular form specifically also identifies the police on that form. They are in the same category with police, same category with carolers, with trick-or-treat-ers. There is no indication on that form that one is preferred over the other. It is merely a listing of those groupings that come frequently to the household. So there has not been a .singling out with regard to that particular faith.

THE COURT: Note my disagreement that they haven't been singled out. They are the only religion listed on the form. That's my definition of being singled out, counsel.

MR. CANTOR: Yes, Your Honor.

THE COURT: Let's go to the next issue.

MR. CANTOR: We are suggesting to the Court that the — this ordinance must be reviewed through intervening scrutiny because the state may enforce the regulations of time, place and manner of expression when there is a content neutral legislation. It must be narrowly tailored to serve a significant interest. In this instance the interest that is being tailored to is the privacy of the . . . .

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